

WSR 19-06-003
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed February 21, 2019, 8:05 a.m., effective March 24, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending these sections to reflect changes in covered benefits, and to remove certain authorization requirements to expedite claims processing and the delivery of timely services.

Citation of Rules Affected by this Order: Amending WAC 182-535-1066 and 182-535-1094.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-01-074 on December 17, 2018.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/ Adopted	WAC Subsection	Reason
Original WAC 182-535-1094 (1)(c)(ii)		
Proposed	"Clients age nine through twenty only on a case-by-case basis and when the site-of-service is prior authorized by the agency;"	
Adopted	"Clients age nine through twenty only on a case-by-case basis and when the site-of-service is prior authorized by the agency; Prior authorization is required for the site of service;"	The agency revised this sub-section to separate coverage information from authorization requirements.
Original WAC 182-535-1094(2)		
Proposed	"Alveoplasty."	Alveoplasty is a covered service for which prior authorization is not required.
Adopted	"Alveoplasty. The agency covers alveoplasty. Prior authorization is not required."	
Original WAC 182-535-1094 (3)(d)		
Proposed	"Frenuloplasty/frenulectomy for clients age seven through twelve only on a case-by-case basis and when prior authorized."	The agency revised this sub-section to separate coverage information from authorization requirements.
Adopted	"Frenuloplasty/frenulectomy for clients age seven through twelve only on a case-by-case basis and when prior authorized. Prior authorization is required."	
Original WAC 182-535-1094 (4)(a)		
Proposed	"Occlusal orthotic devices for clients age twelve through twenty only on a case-by-case basis and when prior authorized."	The agency revised this sub-section to separate coverage information from authorization requirements.
Adopted	"Occlusal orthotic devices for clients age twelve through twenty. only on a case-by-case basis and when prior authorized Prior authorization is required."	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: February 21, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535-1066 Dental-related services—Medical care services clients ((~~formerly general assistance (GA)~~)). (1) The medicaid agency covers the following dental-related services for a medical care services client under WAC 182-501-0060 when the services are provided by a dentist to assess, diagnose, and treat pain, infection, or trauma of the mouth, jaw, or teeth, including treatment of postsurgical complications, such as dry socket:

- (a) Limited oral evaluation;
- (b) Periapical or bitewing radiographs (X-rays) that are medically necessary to diagnose only the client's chief complaint;
- (c) Palliative treatment to relieve dental pain or infection;
- (d) Pulpal debridement to relieve dental pain or infection; and
- (e) Tooth extraction.

(2) ((Tooth extractions require prior authorization when:

(a) The extraction of a tooth or teeth results in the client becoming edentulous in the maxillary arch or mandibular arch; or

(b) A full mouth extraction is necessary because of radiation therapy for cancer of the head and neck.

(3))) Each dental-related procedure described under this section is subject to the coverage limitations listed in this chapter.

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535-1094 Dental-related services—Covered—Oral and maxillofacial surgery services. Clients described in WAC 182-535-1060 are eligible to receive the oral and maxillofacial surgery services listed in this section, subject to the coverage limitations, restrictions, and client-age requirements identified for a specific service.

(1) **Oral and maxillofacial surgery services.** The medicaid agency:

(a) Requires enrolled providers who do not meet the conditions in WAC 182-535-1070(3) to bill claims for services that are listed in this subsection using only the current dental terminology (CDT) codes.

(b) Requires enrolled providers (oral and maxillofacial surgeons) who meet the conditions in WAC 182-535-1070(3) to bill claims using current procedural terminology (CPT) codes unless the procedure is specifically listed in the agency's current published billing guide as a CDT covered code (e.g., extractions).

(c) Covers nonemergency oral surgery performed in a hospital or ambulatory surgery center only for:

(i) Clients age eight and younger;

(ii) Clients age nine through twenty ((only on a case-by-case basis and when the site of service is prior authorized by the agency)). Prior authorization is required for the site of service; and

(iii) Clients any age of the developmental disabilities administration of the department of social and health services (DSHS).

(d) For site-of-service and oral surgery CPT codes that require prior authorization, the agency requires the dental provider to submit current records (within the past twelve months), including:

(i) Documentation used to determine medical appropriateness;

(ii) Cephalometric films;

(iii) Radiographs (X-rays);

(iv) Photographs; and

(v) Written narrative/letter of medical necessity, including proposed billing codes.

(e) Requires the client's dental record to include supporting documentation for each type of extraction or any other surgical procedure billed to the agency. The documentation must include:

(i) Appropriate consent form signed by the client or the client's legal representative;

(ii) Appropriate radiographs;

(iii) Medical justification with diagnosis;

(iv) Client's blood pressure, when appropriate;

(v) A surgical narrative and complete description of each service performed beyond surgical extraction or beyond code definition;

(vi) A copy of the post-operative instructions; and

(vii) A copy of all pre- and post-operative prescriptions.

(f) Covers simple and surgical extractions. ((Authorization is required for the following:

(i) Surgical extractions of four or more teeth per arch over a six month period, resulting in the client becoming edentulous in the maxillary arch or mandibular arch;

(ii) Simple extractions of four or more teeth per arch over a six month period, resulting in the client becoming edentulous in the maxillary arch or mandibular arch; or

(iii) Tooth number is not able to be determined.))

(g) Covers unusual, complicated surgical extractions with prior authorization.

(h) Covers tooth reimplantation/stabilization of accidentally avulsed or displaced teeth.

(i) Covers surgical extraction of unerupted teeth for clients.

(j) Covers debridement of a granuloma or cyst that is five millimeters or greater in diameter. The agency includes debridement of a granuloma or cyst that is less than five millimeters as part of the global fee for the extraction.

(k) Covers ((the following without prior authorization:

((A))) biopsy of soft oral tissue((;

((B))), brush biopsy((; and

((C))), and surgical excision of soft tissue lesions. ((D)) Requires providers to keep all biopsy reports or findings in the client's dental record.

(m) Covers the following with prior authorization (photos or radiographs, as appropriate, must be submitted to the agency with the prior authorization request):

(i) Alveoloplasty on a case-by-case basis.

((E))) Providers must keep all biopsy reports or findings in the client's dental record.

(l) Covers only the following excisions of bone tissue in conjunction with placement of complete or partial dentures:

((A))) (i) Removal of lateral exostosis;

((B))) (ii) Removal of torus palatinus or torus mandibularis; ((and

((C))) (iii) Surgical reduction of osseous tuberosity.

((D))) Surgical access of unerupted teeth for clients age twenty and younger.))

(2) **Alveoloplasty.** The agency covers alveoloplasty. Prior authorization is not required.

(3) **Surgical incisions.** The agency covers the following surgical incision-related services:

(a) Uncomplicated intraoral and extraoral soft tissue incision and drainage of abscess. The agency does not cover this service when combined with an extraction or root canal treatment. Documentation supporting the medical necessity must be in the client's record.

(b) Removal of foreign body from mucosa, skin, or subcutaneous alveolar tissue. Documentation supporting the medical necessity for the service must be in the client's record.

(c) Frenuloplasty/frenulectomy for clients age six and younger without prior authorization.

(d) Frenuloplasty/frenulectomy for clients age seven through twelve ((~~only on a case-by-case basis and when prior authorized~~)). Prior authorization is required. Photos must be submitted to the agency with the prior authorization request. Documentation supporting the medical necessity for the service must be in the client's record.

(e) Surgical access of unerupted teeth for clients age twenty and younger. Prior authorization is required.

((3)) (4) **Occlusal orthotic devices.** (Refer to WAC 182-535-1098 (4)(c) for occlusal guard coverage and limitations on coverage.) The agency covers:

(a) Occlusal orthotic devices for clients age twelve through twenty ((~~only on a case-by-case basis and when prior authorized~~)). Prior authorization is required.

(b) An occlusal orthotic device only as a laboratory processed full arch appliance.

AMENDATORY SECTION (Amending WSR 15-04-136, filed 2/4/15, effective 3/7/15)

WAC 363-116-082 Limitations on new pilots. (1) The following limitations and pilot license upgrade requirements shall apply to a newly licensed pilot during his/her first five years of active service. For purposes of this section, the term "tank vessel" shall, in addition to tank ships, include any articulated or integrated tug and tank barge combinations, and any tonnage restrictions thereon shall be calculated by including the gross tonnage of the tug and tank barge combined. For purposes of this section, the term "petroleum products" shall include crude oil, refined products, liquefied natural gas, and liquefied petroleum gas. GT (ITC) as used in this section refers to gross tonnages measured in accordance with the requirements of the 1969 International Convention on Tonnage Measurement of Ships.

(2) Puget Sound pilotage district - License limitation periods. Except for trips being made for pilot license upgrades, licenses issued in the Puget Sound pilotage district shall have the following limitations:

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	((30,000)) <u>38,000</u> GT (ITC) ((or 660 feet)) except for passenger vessels which may only have a maximum size of 5000 GT (ITC)
2	((30,000)) <u>32,000</u> GT (ITC)	((38,000)) <u>48,000</u> GT (ITC)
3	((38,000)) <u>40,000</u> GT (ITC)	((48,000)) <u>60,000</u> GT (ITC)
4	((45,000)) <u>50,000</u> GT (ITC)	((60,000)) <u>70,000</u> GT (ITC)
5	((55,000)) <u>65,000</u> GT (ITC)	((75,000)) <u>95,000</u> GT (ITC)

(3) Puget Sound pilotage district - Pilot license upgrade requirements. Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily pilot vessels on the trips specified in this section. The trainee evaluation committee shall recommend to the board a series of eight trips to be made by each pilot in the last one hundred twenty days of each year of the license limitation periods specified in subsection (2) of this section. As to these trips, the trainee evaluation committee shall specify the size and type of the vessel; origin and destination, whether the transit is to include a docking, waterway transit or other particular maneuvering requirement, whether any tank vessel trips are to be made while in ballast or loaded and whether the trip shall be taken with training pilots, trainee evaluation committee member pilots or pilots with a specified experience level. To the

WSR 19-06-007
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed February 22, 2019, 7:37 a.m., effective March 25, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Due to increased vessel sizes and changes to availability, the tonnage categories for each license level in the Puget Sound pilotage district need to be adjusted to reflect maritime vessel traffic. The anticipated effects of these changes will include better transitions between training and piloting, better distribution in the tonnages of tankers between the license levels, and better access to various vessel types for all license levels.

Citation of Rules Affected by this Order: Amending WAC 363-116-082.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Adopted under notice filed as WSR 19-02-037 on December 26, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: February 21, 2019.

Jaimie Bever
Executive Director

extent practical, the trips shall be on vessels of at least a size that falls between the upper limit in the expiring license limitation and the upper limit in the upcoming license limitation period. All of these trips shall be complete trips between one port and another port, or between the pilot station and a port. The supervising pilots shall complete and submit to the board an evaluation form provided by the board for each trip a new pilot performs.

(4) Grays Harbor pilotage district - License limitation periods. Pilots licensed in the Grays Harbor pilotage district shall not pilot vessels in violation of the restrictions set forth in the table below during the indicated license year.

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	32,000 GT (ITC) except that piloting on vessels of any size is prohibited through the Chehalis River Bridge unless vessel is in ballast and does not exceed 25,000 GT (ITC)
2	15,000 GT (ITC)	42,000 GT (ITC)
3	32,000 GT (ITC)	52,000 GT (ITC)
4	42,000 GT (ITC)	62,000 GT (ITC)
5	52,000 GT (ITC)	72,000 GT (ITC)

Notwithstanding subsection (7) of this section, upon determination that a bona fide safety concern may result from no pilot without license restrictions being available within a reasonable time to pilot a vessel requiring pilotage services, the chairperson or acting chairperson of the board, on a single trip basis, may authorize a newly licensed pilot holding a restricted license to provide pilotage services to the vessel, irrespective of the tonnage, service or location of the assigned berth of the vessel.

(5) Grays Harbor pilotage district - Pilot license upgrade requirements.

(a) Prior to the expiration of the first license year, a new pilot must make five license upgrade trips. Three of these trips shall be through the Chehalis River Bridge on loaded or partially loaded vessels. The other trips shall be on vessels in excess of 32,000 GT (ITC) and involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(b) Prior to the expiration of the second license year, a new pilot must make two license upgrade trips on tank vessels in excess of 15,000 GT (ITC) and two trips on other vessels in excess of 42,000 GT (ITC). Two of these trips shall involve docking and passage to or from the sea buoy; and two of these trips shall involve turning the vessel in the waterway. Upon satisfactory completion of the two upgrade trips upon tank vessels and completion of the second license year, the

pilot will be authorized to pilot tank vessels in accordance with the limitations specified in subsection (4) of this section. Upon satisfactory completion of the two upgrade trips upon other vessels in excess of 42,000 GT (ITC) and completion of the second license year, the pilot will be authorized to pilot vessels in accordance with the limitations specified in subsection (4) of this section.

(c) Prior to the expiration of the third license year, a new pilot must make two license upgrade trips on tank vessels in excess of 32,000 GT (ITC) and two trips on other vessels in excess of 52,000 GT (ITC). Two of these trips shall involve docking and passage to or from the sea buoy; and two of these trips shall involve turning the vessel in the waterway.

(d) Prior to the expiration of the fourth license year, a new pilot must make two license upgrade trips on tank vessels in excess of 42,000 GT (ITC) and two trips on other vessels in excess of 62,000 GT (ITC).

(e) Prior to the expiration of the fifth license year, a new pilot must make two license upgrade trips on tank vessels in excess of 52,000 GT (ITC) and two trips on other vessels in excess of 72,000 GT (ITC).

(f) If vessels are not available in the Grays Harbor pilotage district to allow a pilot to comply with (a) through (e) of this subsection in a timely manner, the board may designate substitute trips in the Puget Sound pilotage district as allowed by law and in so doing may specify the size of the vessel and any other characteristics of the trips that the board deems appropriate. Such designation shall be considered a modification of the pilot's state license to authorize the specified trips in the Puget Sound pilotage district.

(6) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for forty-five days or more in any one of the five years, he/she shall notify the board and request a revised schedule of limitations.

(7) Except as provided in subsection (4) of this section, no pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of his/her license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.

(8) All limitations on a pilot's license shall be lifted at the beginning of the sixth year of piloting provided he/she has submitted to the board a statement attesting to the fact that he/she has completed all the required license upgrade trips and the vessel simulator courses.

WSR 19-06-018
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-36—Filed February 26, 2019, 11:11 a.m., effective March 29, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department seeks to amend sections in chapter 220-359 WAC to make them more consistent with Oregon rules concerning the concurrent jurisdiction of the Columbia River. These changes will clarify the rules in the

area for the public and allow the rules to be more enforceable for the department.

Citation of Rules Affected by this Order: Repealing WAC 220-359-030, 220-359-050 and 220-359-100; and amending WAC 220-359-010, 220-359-020, 220-359-040, 220-359-060, 220-359-070, 220-359-080, 220-359-090, and 220-359-110.

Statutory Authority for Adoption: RCW 77.04.090, 77.040.130 [77.04.130], 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 18-17-125 on August 17, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 8, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 3, 2018.

Brad Smith, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-359-010 Indian fishery—Area and qualification. (1) It is unlawful for any person to take, fish for or possess ((food)) fish for treaty related ceremonial, subsistence or commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, 1H, and 1E1 ((except that it is permissible for individuals possessing treaty fishing rights pursuant to the Yakima Treaty (12 Stat. 951), the Warm Springs Treaty (12 Stat. 963), the Umatilla Treaty (12 Stat. 945), and the Nez Perce Treaty (12 Stat. 957), while having on his or her person his or her Federal Tribal Identification Card to take, fish for and possess food fish for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, 1H, and 1E1 in accordance with the rules in this chapter)) unless:

(a) The person has in possession a valid identification card issued by the tribal registrar showing the person to be a duly enrolled member of the Nez Perce, Umatilla, Warm Springs, or Yakama tribes who can lawfully exercise treaty fishing rights;

(b) The person submits the valid identification card to any federal, state, or local tribal officer upon request; and

(c) The commercial or subsistence fishing season is open by department rule or the ceremonial fishing is authorized by a valid permit issued by the treaty fishers tribe.

(2) Violation of this section is punishable as a gross misdemeanor or felony crime under RCW 77.15.550.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-359-020 Commercial seasons—((Salmon)) Fish. (1) It shall be ((lawful)) unlawful to take, fish for and possess ((salmon)) fish for commercial purposes ((taken with drift gillnets and set nets not exceeding 300 feet in length, and with dip nets and hoop nets)) in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H ((during the following season:

No open season)) except as allowed in this chapter or by emergency regulation.

(2) Violation of this section is punishable as a gross misdemeanor or felony crime under RCW 77.15.550.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-359-040 Lawful ((salmon)) fishing gear—Mesh. (1) It shall be unlawful to take, fish for or possess ((salmon)) fish taken for commercial purposes with any net in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H ((containing gillnet mesh larger than 4 1/2 inches stretch measure during the period 12 noon June 28 to 12 noon July 2, and containing mesh smaller than 7 1/4 inches stretch measure during the period 12 noon August 9 to 12 noon August 20)) except as provided for in emergency regulation.

(2) Violation of this section is punishable as a gross misdemeanor under RCW 77.15.520.

AMENDATORY SECTION (Amending WSR 17-22-100, filed 10/30/17, effective 1/1/18)

WAC 220-359-060 Off-reservation Indian subsistence fishing. (1) It is unlawful for any person((, including treaty Indian fishermen,)) to take, fish for, or possess ((salmon or other food)) fish for subsistence purposes ((except in accordance with the provisions of this section)).

(2) It is lawful for individuals possessing)) in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, 1H, and 1E1 unless:

(a) The person possesses treaty fishing rights pursuant to the Yakima Treaty, the Warm Springs Treaty, the Umatilla Treaty, and the Nez Perce Treaty to fish ((for food fish for subsistence family use purposes subject to the following provisions:

(a)); and

(b) Such fishing ((is permitted year round)) occurs in the following areas:

(i) That area of the mainstem Columbia River from a line between a marker on the Washington shore and a marker on the Oregon shore, such line located approximately one-half mile upstream from the mouth of Eagle Creek, upstream to a point at the four-second flashing light #67 approximately 1/2 mile downstream of the Dalles Bridge; that area of the mainstem Columbia River from a point 200 feet above the Dalles Dam fishway exit upstream to a point 600 feet downstream of the John Day Dam fishway entrance; and

(ii) That area of the mainstem Columbia River from a point 200 feet above the John Day Dam fishway exit

upstream to a point at the downstream end of the wingwall of the McNary Dam boat lock; that area of Columbia River from a point 200 feet above the McNary Dam fishway exit upstream to the Highway 12 bridge; excluding those areas within 1/4 mile radius of the mouth of Wind River, Little White Salmon River (Drano Lake), Klickitat River, and Spring Creek Hatchery fishway entrance.

((b)) ~~Lawful fishing gear by treaty Indians in the above-designated area includes~~ (c) The fishing gear used is limited to dip nets and bag nets of a mesh size not exceeding 5 inches attached to a hoop 24 feet or less in circumference, spear, gaff, and club, ((and foul hook.

((e))) except it is lawful to use sport angling gear in places and at times allowed under chapter 220-310 WAC ((series)) for treaty Indian subsistence purposes.

(d) ~~((It is unlawful to use drift gillnets or set gillnets for treaty Indian subsistence fishing in the mainstem of the Columbia River except as authorized by the director of the department of fish and wildlife under the provisions of WAC 220-359-110.~~

(e) ~~It is unlawful to use gillnets, set nets, hoop nets, dip or bag nets with a mesh size exceeding 5 inches, set lines, or any other type of fishing gear not otherwise specifically authorized except during times and in areas where such gear is authorized for commercial fishing purposes.~~

((3)) The owner's tribal affiliation and enrollment number is either placed on the upper side of the hoop, or on a tag attached to the hoop, pole, or cable.

(e) The fishing is authorized by tribal regulation.

(2) In accordance with RCW 77.12.453, it is lawful for ((the following)) Wanapum Indians to take, fish for, and possess food fish for subsistence purposes in the vicinity of Priest Rapids Dam ((in specified areas at specified times using specified gear authorized)) provided that a permit has been issued by the director of the department of fish and wildlife and all conditions followed. ((The)) Individuals will be designated ((below may be revised from time to time)) by agreement between the Wanapum Indians and the director of the department of fish and wildlife((:

Frank Buck	Jade Buck
Stanley Buck	Robert S. Tomanawash, Sr.
Willie Buck	Lester Umtuch
Harry Buck	Grant Wyena
Ken Buck	Jerry Wyena
Rex Buck, Jr.	Douglas Wyena
Phillip Buck	Jimmy Wyena
Richard Buck	Patrick Wyena))

or the director's designee.

The following provisions apply to this fishery:

(a) ~~((It is unlawful to fish at any time, place, or using gear other than that designated by the director of the department of fish and wildlife and authorized by regulation.~~

((b)) It is unlawful for Wanapum Indian fishermen to fail to report, in writing, their total catch to the department of fish and wildlife within five days of the end of fishing activity under this subsection ((3)(a) of this section)).

((e))) (b) Should any Wanapum Indian be convicted of violating the provisions of this section, or sell, barter, or attempt or sell or barter any fish taken in this fishery or any treaty Indian fishery, that fishermen will be ineligible to further participate in the Wanapum Indian subsistence fishery unless otherwise determined by the director of the department of fish and wildlife.

((4))) (3) It is unlawful to sell, barter, or offer for sale or barter, buy, or for a ((commercially licensed fish dealer or)) person acting in the capacity of a wholesale fish buyer to have in possession ((food)) fish taken in an Indian subsistence fishery ((under the provisions of subsections (2) and (3) of this section.

((5))) unless authorized by department rule.

(4) It is unlawful for fishermen participating in an Indian subsistence fishery to fail to submit their catch to department of fish and wildlife employees for the conduct of biological sampling or to fail to allow necessary biological samples to be taken.

(5) Violation of this section is punishable as:

(a) A gross misdemeanor or felony crime under RCW 77.15.550 regarding seasons and times;

(b) A gross misdemeanor under RCW 77.15.520 regarding gear; and

(c) A felony crime under RCW 77.15.260 regarding trafficking of fish not allowed by department rule.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-359-070 Season and gear—Shad. (1) It shall be lawful to take, fish for and possess shad taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H ((with single-wall floater gillnet and set net gear containing mesh of a size not less than 5 3/8 inches or larger than 6 1/4 inches stretch measure and said mesh webbing shall be of a breaking strength not greater than a 10 pound pull from 12 noon July 4 to 12 noon July 11. It shall be unlawful to sell any salmon taken during this lawful shad fishery)) during the times and with the gear types as prescribed by emergency rule.

(2) It is unlawful to sell any salmon, steelhead or sturgeon taken during a lawful shad fishery except as allowed by department rule.

(3) It is unlawful to set or operate set net, drift net, or set lines for shad unless the owner's tribal affiliation and enrollment number is placed upon or adjacent to the end corks or set nets and drift nets, on the anchored ends of setlines and submerged nets, and on the anchor floats to which any of these gears are attached.

(4) Violation of this section is punishable as:

(a) A gross misdemeanor or felony under RCW 77.15.550 regarding seasons; and

(b) A gross misdemeanor under RCW 77.15.520 regarding gear.

AMENDATORY SECTION (Amending WSR 17-22-100, filed 10/30/17, effective 1/1/18)

WAC 220-359-080 Season—Sturgeon. (1) It is unlawful to take, fish for or possess sturgeon taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H except individuals possessing treaty fishing rights pursuant to the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with setline gear from January 1 through January 31, and during seasons opened under emergency rule by the department and as provided in this section.

(2) During the open season, it is unlawful to:

(a) Retain for commercial or subsistence purposes sturgeon less than 38 inches in fork length or greater than 54 inches in fork length in Columbia River Salmon Management and Catch Reporting Area (SMCRA) 1F. It is unlawful to retain for commercial or subsistence purposes sturgeon less than 43 inches in fork length or greater than 54 inches in fork length in Columbia River SMCRAs 1G and 1H;

(b) Sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to the sale of the sturgeon to anyone acting in the capacity of a wholesale fish buyer ((endorsed under chapter 77.65 RCW)) or to sell or barter sturgeon eggs at retail;

(c) Deliver to anyone acting in the capacity of a wholesale fish buyer ((endorsed under chapter 77.65 RCW)) any sturgeon that are not in the round with the head and tail intact.

(3) ((Gear:

(a) Maximum) It is unlawful to deploy or operate fishing gear except as follows:

(a) Not to exceed maximum 100 hooks per setline;

(b) Minimum hook size may not be less than 9/0;

(c) Treble hooks prohibited; ((and))

(d) ((Visible buoys required, with operator name and tribal identification clearly marked on the buoy)) Buoys must be visible; and

(e) The owner's tribal affiliation and enrollment number must be placed upon or adjacent to the end corks of set nets and drift nets, on the anchored ends of setlines and submerged nets, and on the anchor floats to which any of these gears are attached.

(4) All sturgeon not of legal size shall be released to the water unharmed. Sturgeon not captured for legal harvest shall not be possessed on land. For purposes of this section, docks and boat ramps are not considered land.

(5) Violation of this section is punishable as follows:

(a) A gross misdemeanor or felony crime under RCW 77.15.550 regarding seasons and times;

(b) A gross misdemeanor under RCW 77.15.520 regarding gear; and

(c) A felony crime under RCW 77.15.260 regarding trafficking of fish not allowed by department rule.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-359-090 Closed areas ((salmon))—River mouths. It shall be unlawful to take, fish for or possess ((salmon)) fish taken for commercial purposes in or from the following designated closed waters adjacent to the mouths of

streams tributary to Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H during the time periods specified.

(1) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline of the mouths of Hood River, Deschutes River, and Umatilla River are closed the entire year.

(2) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to three-quarters mile downstream from the western shoreline of the mouth of the Little White Salmon River are closed the entire year.

(3) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline of the mouths of Herman Creek and the Big White Salmon River are closed from August 1 to November 1 of each year.

(4) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one- and one-half miles downstream from the western shoreline of the mouths of the Klickitat River and Wind River are closed the entire year.

(5) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one- and one-half miles downstream from the western shoreline of the mouth of Spring Creek are closed from August 1 to November 1 of each year.

(6) Violation of this section is punishable as a gross misdemeanor or felony crime under RCW 77.15.550 regarding seasons and times.

AMENDATORY SECTION (Amending WSR 17-22-100, filed 10/30/17, effective 1/1/18)

WAC 220-359-110 Columbia River—Columbia River off-reservation treaty Indian ceremonial fishing. (1) It shall be unlawful for any Indian to conduct ceremonial fishing on the Washington side of the Columbia River or in Washington Columbia River tributaries outside of an Indian reservation without first providing at least one week advance written notification to the director of the Washington state department of fish and wildlife, including all of the following information:

(a) Name, place, and time of ceremony for which fish will be used.

(b) Name of individuals and helpers who will be fishing and transporting fish. Only these individuals will be allowed to fish on the occasion covered by the notice.

(c) Exact location(s) of fishing and the amount of gear to be used at each location.

(d) Exact beginning and ending dates of ceremonial fishing.

(e) Type of gear to be used in ceremonial fishing.

(f) Estimated number of pounds of fish needed for ceremonial fishing.

(g) If fish are to be stored prior to a ceremony, the location of storage must be identified. If they are not to be stored, it must be so indicated.

(h) The signature of the designated tribal official certified to the Washington department of fish and wildlife in advance.

(2) It shall be unlawful to:

(a) Fish for ceremonial purposes with commercial fishing gear except in those areas where such fishing gear is authorized for commercial fishing(());

(b) Deploy or operate fishing gear unless the owner's tribal affiliation and enrollment number is placed upon or adjacent to the end corks of set nets and drift nets, on the anchored ends of setlines and submerged nets, and on the anchor floats to which any of these gears are attached;

(c) Engage in ceremonial fishing during any portion of a week within a commercial fishing season which is closed to commercial fishing(());

((e));

(d) Sell or barter, offer for sale or barter, buy, or for a ((commercial)) person acting in the capacity of a wholesale fish buyer ((or fish dealer)) to have in his possession fish taken for ceremonial purposes(());

((d));

(e) Engage in ceremonial fishing unless done in compliance with all provisions contained in the advance notice to the department of fish and wildlife of the state of Washington.

(3) ((Any individual engaged in ceremonial fishing must have in his)) It is unlawful for any person engaged in ceremonial fishing to fail to have in possession a signed copy or duplicate copy of the written tribal notification to the director of the Washington state department of fish and wildlife that such fishing is to be conducted.

(4) ((All fishing gear shall be marked and identified at all times while fishing for ceremonial purposes.

((5))) A record of the numbers of fish taken for ceremonial purposes will be made and sent promptly to the director of the Washington state department of fish and wildlife upon conclusion of each ceremonial fishing activity.

(5) Violation of this section is punishable as:

(a) A gross misdemeanor or felony crime under RCW 77.15.550 regarding seasons and times;

(b) A gross misdemeanor under RCW 77.15.520 regarding gear; and

(c) A felony crime under RCW 77.15.260 regarding trafficking of fish not allowed by department rule.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-359-030 Weekly open fishing periods—Salmon.

WAC 220-359-050 Open area salmon—Lone Pine.

WAC 220-359-100 Unlawful provision—Salmon.

CONSOLIDATED TECHNOLOGY SERVICES

[Filed February 27, 2019, 7:39 a.m., effective March 30, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To allow consolidated technology services to charge fees for production of records and adopt the schedule of costs laid out in RCW 42.56.120, as amended.

Citation of Rules Affected by this Order: New WAC 143-06-170 and 143-06-180; repealing WAC 143-06-090; and amending WAC 143-06-160.

Statutory Authority for Adoption: RCW 42.56.100, 42.56.040 (1)(d), 42.56.120, 43.10.110.

Adopted under notice filed as WSR 19-03-115 on January 16, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 27, 2019.

Rebekah O'Hara
Chief Legal Services Officer

NEW SECTION

WAC 143-06-170 Calculations of action costs of producing copies of public records declared to be unduly burdensome—Adoption of statutory fee schedule. (1) Consolidated Technology Services has deemed the actual calculation of costs to the agency for producing responsive records to a public records request is unduly burdensome, because:

a) The office does not have the resources to conduct a study to determine all its actual copying costs;

b) staff resources are insufficient to perform a study and to calculate such actual costs

c) funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations;

d) to conduct such a study would interfere with other essential agency functions

e) through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

As such, Consolidated Technology Services shall charge for copies of records pursuant to the default fees in RCW

42.56.120 (2)(b) and (c). Consolidated Technology Services will charge for customized services pursuant to 42.56.-120(3). Under RCW 42.56.130, Consolidated Technology Services may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. Consolidated Technology Services may enter into an alternative fee agreement with a requester under RCW 42.56.120(4).

(2) This fee schedule will be set forth on the Consolidated Technology Services Agency website and be updated with subsequent changes to RCW 42.56 or further Consolidated Technology rule-making.

(3) Consolidated Technology Services may include a customized service charge for certain public records requests. Requests that require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such customized access services are not used by the agency. The customized service charge may reimburse Consolidated Technology Services up to the actual cost of providing these services.

NEW SECTION

WAC 143-06-180 Fee waivers Requesters are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions.

(1) It is within the discretion of the public records officer to waive copying fees when: (a) all of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or (b) all of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requester will be charged in accordance with this rule.

(2) Fee waivers are not applicable to records provided in installments.

NEW SECTION

WAC 143-06-190 Requestor fees and deposits Consolidated Technology Services shall require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. Consolidated Technology Services will notify the requester of when payment is due.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 143-06-090 Copying.

AMENDATORY SECTION (Amending WSR 00-01-028, filed 12/7/99, effective 1/7/00)

WAC 143-06-160 Records in possession of data processing service centers. No public records of users of department services shall be made available for public inspection or copying by the department without the express written authorization of the user.

Requests for inspection or copying of public records of the user, held or maintained by the center, shall be referred to the user for determination as to the right of public access to such records, pursuant to chapter 42.1756 RCW. ((Costs incurred by the department in providing access to or copies of public records of the user pursuant to chapter 42.17 RCW shall be paid by the user.))

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 19-06-026

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed February 28, 2019, 10:51 a.m., effective April 1, 2019]

Effective Date of Rule: April 1, 2019.

Purpose: The agency is revising WAC 182-533-0370 to remove subsection (3) to allow the infant and infant's parents to receive infant case management and maternity support services if a parent becomes pregnant. The agency is also revising WAC 182-533-0390 to reduce the minimum hours of childbirth education instruction required from eight to six.

Citation of Rules Affected by this Order: Amending WAC 182-533-0370 and 182-533-0390.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-03-051 on January 9, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: February 28, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-09-061, filed 4/16/14, effective 5/17/14)

WAC 182-533-0370 Infant case management—Client eligibility. (1) To be eligible to receive infant case management (ICM), an infant must meet all the following criteria:

(a) Be covered under categorically needy, medically needy, or state-funded medical programs under Washington apple health.

(b) Meet the age requirement for ICM, which is the day after the maternity cycle (defined in WAC 182-533-0315) ends, through the last day of the month of the infant's first birthday.

(c) Reside with at least one parent who provides the infant's day-to-day care and is:

(i) The infant's natural or adoptive parent(s);

(ii) A person other than a foster parent who has been granted legal custody of the infant; or

(iii) A person who is legally obligated to support the infant.

(d) Have a parent(s) who needs assistance in accessing medical, social, educational and/or other services to meet the infant's basic health and safety needs.

(e) Not be receiving any case management services funded through Title XIX medicaid that duplicate ICM services.

(2) Clients who meet the eligibility criteria and are enrolled in a medicaid agency-contracted managed care organization (MCO) are eligible for ICM services outside their plan.

(3) ~~((If the infant's mother becomes pregnant during the ICM eligibility period and she is eligible for maternity support services (MSS), the infant and the infant's mother are no longer eligible to receive ICM services.~~

(4)) Clients who do not agree with an eligibility decision by the medicaid agency for ICM have a right to a fair hearing under chapter 182-526 WAC.

AMENDATORY SECTION (Amending WSR 12-01-097, filed 12/20/11, effective 1/20/12)

WAC 182-533-0390 Childbirth education (CBE) classes. (1) Purpose. The purpose of childbirth education (CBE) classes is to help prepare the client and ~~((her))~~ the client's support person(s):

(a) For the physiological, emotional, and psychological changes experienced during and after pregnancy;

(b) To develop self-advocacy skills;

(c) To increase knowledge about and access to local community resources;

(d) To improve parenting skills; and

(e) To improve the likelihood of positive birth outcomes.

(2) Definitions. The definitions in chapter 182-500 WAC, ~~((medial))~~ medical assistance definitions, and WAC 182-533-0315, maternity support services definitions, also apply to this section.

(3) Client eligibility. To be eligible for CBE classes, a client must be:

(a) Pregnant; and

(b) Covered under one of the medical assistance programs described in WAC 182-533-0320 (1)(a)(i) and (iv).

(4) Provider requirements. To be paid for providing CBE classes to eligible clients, an approved instructor must:

(a) Have a core provider agreement on file with the health care authority (the agency);

(b) Ensure that individuals providing CBE classes have credentials and/or certification as outlined in the agency's current published billing instructions;

(c) Deliver CBE classes in a series of group sessions; and

(d) Provide curriculum containing topics outlined in the agency's CBE curriculum checklist found in the agency's current published billing instructions. Topics include, but are not limited to:

(i) Pregnancy;

(ii) Labor and birth;

(iii) Newborns; and

(iv) Family adjustment.

(5) Documentation. Providers must:

(a) Follow the health care record requirements found in WAC 182-502-0020; and

(b) Maintain the following additional documentation:

(i) An original signed copy of each client's Freedom of Choice/Consent for Services form;

(ii) A client sign-in sheet for each class; and

(iii) Names and ProviderOne Client ID numbers of eligible clients attending CBE classes and the date(s) they participated in each CBE class.

(6) Coverage.

(a) The agency covers one CBE class series per client, per pregnancy. The client must attend at least one CBE session for the provider to be paid.

(b) CBE classes must include a minimum of ~~((eight))~~ six hours of instruction and are subject to the restrictions and limitations in this section and other applicable WAC.

(7) Payment. The agency pays for the CBE classes described in subsection (6) of this section on a fee-for-service basis subject to the following:

(a) CBE must:

(i) Include all classes, core materials, publications, and educational materials provided throughout the class series. Clients must receive the same materials as are offered to other attendees; and

(ii) Be billed according to the agency's current published billing instructions.

(b) The provider must accept the agency's fee as payment in full for classes provided to a client in accordance with 42 C.F.R. § 447.15.

WSR 19-06-036**PERMANENT RULES****DEPARTMENT OF TRANSPORTATION**

[Filed March 1, 2019, 11:03 a.m., effective April 1, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposal creating WAC 468-38-435 was initiated by federal regulation in Fixing America's Surface Transportation Act (FAST Act).

The first section of the proposal exempts up to two thousand pounds for vehicles operated by an engine fueled primarily by natural gas up to eighty-two thousand pounds. This proposal is consistent with FAST Act §1410; 23 U.S.C. 127(s).

The second section of the proposal increases legal weights to emergency vehicles on the interstate including one mile access to and from the interstate. The proposal is consistent with FAST Act §1410; 23 U.S.C. 127(r).

Washington is required to certify annually regarding compliance to federal size and weight requirements. This rule change brings Washington into compliance with FAST Act.

Citation of Rules Affected by this Order: New WAC 468-38-435, sections 1 and 2.

Statutory Authority for Adoption: RCW 46.44.098, 46.44.090.

Other Authority: 23 U.S.C 127.

Adopted under notice filed as WSR 19-03-113 on January 16, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 2, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 2, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 28, 2019.

Kara Larsen, Director
Risk Management and Legal Services

NEW SECTION

WAC 468-38-435 Federal weight increases on the interstate system. (1) Are there any weight exemptions for natural gas engines?

Yes, for the interstate system and no more than one mile access to and from the interstate system, natural gas vehicles, if operated by an engine fueled primarily by natural gas, may exceed vehicle weight limits set in RCW 46.44.041 up to two thousand pounds with a maximum gross vehicle weight of eighty-two thousand pounds. The increase in weight shall equal the difference between:

(a) The weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and

(b) The weight of a comparable diesel tank and fueling system.

(2) What weights are authorized for emergency vehicles to travel on the interstate system?

(a) Emergency vehicles may operate without a permit on the interstate system and no more than one mile to and from

the interstate system to a maximum gross vehicle weight of eighty-six thousand pounds and axle weights of:

(i) Twenty-four thousand pounds on a single steering axle;

(ii) Thirty-three thousand five hundred pounds on a single drive axle;

(iii) Sixty-two thousand pounds on a tandem axle; or

(iv) Fifty-two thousand pounds on a tandem rear drive steer axle.

(b) In this section, the term emergency vehicle means a vehicle designed to be used under emergency conditions:

(i) To transport personnel and equipment; and

(ii) To support the suppression of fires and mitigation of other hazardous situations.

(3) Operators of emergency vehicles described in this section shall check their route on Washington state department of transportation, commercial vehicle services web site for restrictions prior to travel. These vehicles shall obtain approval/permit from the local jurisdiction when traveling on any local roads. Any firefighting apparatus or emergency vehicle shall obtain a permit from commercial vehicles services office prior to traveling on state highways that are not part of the interstate system if their weights exceed what is prescribed in RCW 46.44.190(4).

WSR 19-06-037

PERMANENT RULES

TRANSPORTATION COMMISSION

[Filed March 1, 2019, 11:49 a.m., effective April 1, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Setting State Route 99 Tunnel toll rates, fees, and policies, amending chapter 468-270 WAC, Setting toll amounts for toll facilities in Washington state. Toll rates for SR 99 Tunnel take effect upon commencement of the tolling program on the SR 99 Tunnel, per WAC 468-270-080. Financial assumptions for the adopted toll rate schedule assumes commencement of tolling on the SR 99 Tunnel by June 30, 2019 (fiscal year (FY) 2019). An FY 2020 commencement date is not expected to require changes to FY 2020 toll rates, but may impact future revenue needs for the facility.

Citation of Rules Affected by this Order: New WAC 468-270-073; and amending WAC 468-270-040, 468-270-050, and 468-270-080.

Statutory Authority for Adoption: RCW 47.56.030, 47.56.795, 47.56.850, and 47.56.862.

Adopted under notice filed as WSR 18-17-164 on August 21, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 16, 2018.

Reema Griffith
Executive Director

AMENDATORY SECTION (Amending WSR 16-11-091, filed 5/18/16, effective 7/1/16)

WAC 468-270-040 How are the tolls determined and adjusted? In determining toll amounts, the transportation commission considers data and information provided by the department of transportation, public opinion and advice from any required citizen advisory committee.

(1) Tacoma Narrows Bridge. In accordance with chapter 47.46 RCW, the commission must consider the toll rate advice of the citizen advisory committee and must set toll amounts that cover the debt and operations and maintenance until the indebtedness is repaid as required by law.

(2) SR 520 Bridge. The commission must consider toll rates that will help maintain travel time, speed, and reliability on the corridor and must set and adjust toll rates to generate revenue sufficient and necessary to cover costs and obligations described in RCW 47.56.830 and 47.56.850.

(3) SR 99 Tunnel.

(a) The commission must consider toll rates that will help maintain travel time, speed, and reliability on the tunnel and must set and adjust toll rates to generate revenue sufficient and necessary to cover costs and obligations described in RCW 47.56.830 and 47.56.850.

(b) Effective July 1, 2022, and every three years thereafter, subject to review and potential adjustment by the commission, toll rates shall be set as follows:

(i) All two-axle *Good To Go!*™ toll rates shall increase by three percent, rounded to the nearest five cent interval.

(ii) All two-axle Pay By Mail toll rates shall be set to two dollars more than the revised two-axle *Good To Go!*™ toll rates.

(iii) All multi-axle *Good To Go!*™ and Pay By Mail toll rates shall be set equal to one-half the revised two-axle rates, multiplied by the number of axles up to a maximum of six axles, and rounded to the nearest five cent interval.

(4) I-405 express toll lanes.

(a) The commission must consider a schedule of toll rates that will maintain travel time, speed, and reliability on the corridor as described in RCW 47.56.850 and 47.56.880. The schedule adopted by the commission will allow toll rates to vary in amount by time of day, level of traffic congestion within the highway facility, and other criteria.

(b) The commission must set a minimum and a maximum toll rate, each subject to review on an annual basis or as needed to maintain performance requirements outlined in RCW 47.56.880.

(c) The commission must set an additional fixed amount to be added to the toll rate for vehicles that are not registered for a *Good To Go!*™ account who pay the Pay By Mail toll rate.

AMENDATORY SECTION (Amending WSR 15-08-038, filed 3/25/15, effective 4/25/15)

WAC 468-270-050 What toll facilities are currently subject to this chapter? Currently, the Tacoma Narrows Bridge, SR 167 HOT lanes, SR 520 Bridge, the SR 99 Tunnel, and the I-405 express toll lanes.

NEW SECTION

WAC 468-270-073 What are the toll rates on the SR 99 Tunnel? (1) Tables 7 through 11 show the applicable toll rates by vehicle axles, day and time of travel, and method of payment.

(2) Effective July 1, 2022, and every three years thereafter, subject to review and potential adjustment by the commission, toll rates shall be increased as described in WAC 468-270-040 (3)(b).

TABLE 7
SR 99 TUNNEL
TWO-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to 6 a.m.	\$1.00	\$3.00	\$1.25
6 a.m. to 7 a.m.	\$1.25	\$3.25	\$1.50
7 a.m. to 9 a.m.	\$1.50	\$3.50	\$1.75
9 a.m. to 3 p.m.	\$1.25	\$3.25	\$1.50
3 p.m. to 6 p.m.	\$2.25	\$4.25	\$2.50
6 p.m. to 11 p.m.	\$1.25	\$3.25	\$1.50
11 p.m. to midnight	\$1.00	\$3.00	\$1.25

Saturdays and Sundays ³	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to Midnight	\$1.00	\$3.00	\$1.25

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 8
SR 99 TUNNEL
THREE-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to 6 a.m.	\$1.50	\$4.50	\$1.75
6 a.m. to 7 a.m.	\$1.90	\$4.90	\$2.15
7 a.m. to 9 a.m.	\$2.25	\$5.25	\$2.50
9 a.m. to 3 p.m.	\$1.90	\$4.90	\$2.15
3 p.m. to 6 p.m.	\$3.40	\$6.40	\$3.65
6 p.m. to 11 p.m.	\$1.90	\$4.90	\$2.15
11 p.m. to midnight	\$1.50	\$4.50	\$1.75

Saturdays and Sundays ³	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to Midnight	\$1.50	\$4.50	\$1.75

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 9
SR 99 TUNNEL
FOUR-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to 6 a.m.	\$2.00	\$6.00	\$2.25
6 a.m. to 7 a.m.	\$2.50	\$6.50	\$2.75
7 a.m. to 9 a.m.	\$3.00	\$7.00	\$3.25
9 a.m. to 3 p.m.	\$2.50	\$6.50	\$2.75
3 p.m. to 6 p.m.	\$4.50	\$8.50	\$4.75
6 p.m. to 11 p.m.	\$2.50	\$6.50	\$2.75
11 p.m. to midnight	\$2.00	\$6.00	\$2.25

Saturdays and Sundays ³	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to Midnight	\$2.00	\$6.00	\$2.25

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 10
SR 99 TUNNEL
FIVE-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to 6 a.m.	\$2.50	\$7.50	\$2.75
6 a.m. to 7 a.m.	\$3.15	\$8.15	\$3.40
7 a.m. to 9 a.m.	\$3.75	\$8.75	\$4.00
9 a.m. to 3 p.m.	\$3.15	\$8.15	\$3.40
3 p.m. to 6 p.m.	\$5.65	\$10.65	\$5.90
6 p.m. to 11 p.m.	\$3.15	\$8.15	\$3.40
11 p.m. to midnight	\$2.50	\$7.50	\$2.75

Saturdays and Sundays ³	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to Midnight	\$2.50	\$7.50	\$2.75

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 11
SR 99 TUNNEL
SIX-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to 6 a.m.	\$3.00	\$9.00	\$3.25
6 a.m. to 7 a.m.	\$3.75	\$9.75	\$4.00
7 a.m. to 9 a.m.	\$4.50	\$10.50	\$4.75
9 a.m. to 3 p.m.	\$3.75	\$9.75	\$4.00
3 p.m. to 6 p.m.	\$6.75	\$12.75	\$7.00
6 p.m. to 11 p.m.	\$3.75	\$9.75	\$4.00
11 p.m. to midnight	\$3.00	\$9.00	\$3.25

Saturdays and Sundays ³	Good To Go!™ Pass ¹	Pay By Mail ¹	Good To Go!™ Pay By Plate ²
Midnight to Midnight	\$3.00	\$9.00	\$3.25

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

AMENDATORY SECTION (Amending WSR 15-08-038, filed 3/25/15, effective 4/25/15)

WAC 468-270-080 When are toll rates in effect? The toll rates for each facility take effect upon commencement of the tolling program on each new toll facility. Check the WSDOT web site at wsdot.wa.gov/goodtogo for updated

information on the opening dates for the tolling programs. Unless otherwise required by law, the collection of tolls on a facility will remain in effect until changed by the commission.

(1) For the Tacoma Narrows Bridge toll rates will remain in effect until changed by the commission or removed due to final repayment of the project as provided by law.

(2) For the SR 167 HOT lanes, the tolls will remain in effect until changed by the commission.

(3) For the SR 520 Bridge, the tolls will take effect upon certification by the secretary of transportation that the new statewide tolling operations center and photo toll system are fully operational as described in the note following RCW 47.56.795.

(4) For the I-405 express toll lanes, the toll rate schedule will remain in effect until changed by the commission.

(5) For the SR 99 Tunnel, the toll rate schedule will remain in effect until changed by the commission.

Change: In subsection (23) added defining language.

Rationale: There are two categories of subpermittees needing description in order to correspond to the associated WAC.

Change: In subsection (23) removed unnecessary language.

Rationale: "At the facility" was made redundant with language in the new definition.

Change: In subsection (24) added language.

Rationale: It is necessary to make clear that wildlife is the subject of taming.

Change: In subsection (25) added a description to define veterinary summaries.

Rationale: The term is in corresponding WAC but was not defined, therefore, wildlife rehabilitators could not know exactly what they needed to submit for compliance.

Supplemental Recommended Adjustments:

Change: In subsection (5) Euthanasia, added the word "and."

Rationale: The addition makes the sentence flow better.

Change: Deleted under subsection (5) Euthanasia, "or inability to be rehabilitated to release."

Rationale: Advised by public comment that this phrase prevented the option of placing some animals in education display or programs, if all of the animals that could not be released had to be euthanized. The intent of subsection (5) Euthanasia, is to prevent animals from languishing in pain and suffering, and provide for protection of wild populations, and the public.

Change: Added "Foster" means, to serve as a conspecific surrogate parent or conspecific companion to wildlife in rehabilitation.

Rationale: Public comment indicated that "foster" was not clearly understood and needed to be defined.

Change: In "education animal" and subsection (12) change[d] "wild animal" to "wildlife."

Rationale: In RCW 77.08.010 ["]"Wild animals" means, those species of the class Mammalia ..." whereas "wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This definition is the correct definition because animals referred to in these rules can be all wildlife not just mammals.

Change: In subsection (17) add[ed] the word "wildlife" to "animal."

Rationale: In RCW 77.08.010 ["]"Wild animals" means, those species of the class Mammalia ..." whereas "wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This definition is the correct definition because animal can be all wildlife not just mammals.

Change: In subsection (24) add[ed] the words "such as wildlife."

WAC 220-450-070 Wildlife rehabilitation permits—Requirements and restrictions.

Change: Capitalized minimum standards for wildlife rehabilitation.

Rationale: Minimum Standards for Wildlife Rehabilitation is the name of a book.

Change: In subsection (ii) added clarification language to the sentence.

[Order 19-35—Filed March 1, 2019, 1:00 p.m., effective April 1, 2019]

WSR 19-06-038

PERMANENT RULES DEPARTMENT OF FISH AND WILDLIFE

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department amended rules in chapter 220-450 WAC to better clarify the requirements, restrictions, and best practices concerning wildlife rehabilitation for the public and to improve compliance with agency rules among wildlife rehabilitators.

Citation of Rules Affected by this Order: Repealing WAC 220-450-210 and 220-450-220; and amending WAC 220-450-060, 220-450-070, 220-450-080, 220-450-090, 220-450-100, 220-450-110, 220-450-120, 220-450-130, 220-450-140, 220-450-150, 220-450-160, 220-450-170, 220-450-180, 220-450-190, and 220-450-200.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070.

Adopted under notice filed as WSR 18-24-091 on December 3, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-450-060 Definitions—(~~(Oil)~~ ~~wildlife and~~) Wildlife rehabilitation permits.

Change: In subsection (4) added the words "wildlife" and "static" to the sentence.

Rationale: "Wildlife" was suggested by a reviewer to reinforce the nature of the animal, such as opposed to captive-bred. "Static" was added to conform to the term "static display" in the associated WAC, and make the distinction that these animals are not used in programs.

Change: In subsection (7) we refined the sentence structure.

Rationale: The sentence did not thoroughly define the term "hacking," omitting any suggestion of the provision of food. The placement of the word "temporary" was especially problematic implying that the birds may eventually be permanently possessed.

Change: In subsection (10) added a description to clarify imprinting.

Rationale: Imprinting is a difficult word to define in the context of wildlife rehabilitation and subject to dispute, therefore any additional detail to the definition is essential.

Rationale: The addition makes it clear that forty-eight hours applies only to veterinarians who do not have a wildlife rehabilitation permit and not those with permits who may keep wildlife longer.

Change: In subsection (iii) added a sentence.

Rationale: The wildlife rehabilitation advisory committee felt that training could not be spread out over a long period of time and be effective. This was unintentionally omitted in the previous version.

Change: In subsection (iv) added clarification language to the sentence.

Rationale: Wildlife rehabilitation advisory committee reviewers requested clarification of "good standing" to provide for consistency, and accept letters from only qualified permittees.

Change: In subsection (b) added clarification to veterinarian exemptions.

Rationale: Veterinarians felt the requirements would prohibit most veterinarians from becoming wildlife rehabilitators because of time constraints on their practice, and that their medical education augmented by wildlife courses substituted for some of the experience needed.

Change: In subsection (f)(iii) language was added to define facility "changes."

Rationale: These details were added to answer questions presented by wildlife rehabilitators about how they would know when to notify the department about changes and remain in compliance.

Change: In subsection (4) Large-carnivore rehabilitation endorsement, (i) the sentence was modified to allow for additional large carnivore endorsement candidates.

Rationale: Public comment asserted that large carnivore wildlife biologists are qualified and capable of handling and restraining large carnivores, therefore may be credited partial experience.

Change: In subsection (4) Large-carnivore rehabilitation endorsement, (iii) added wording to define in "good standing."

Rationale: This was added to be consistent with the general wildlife rehabilitation permit requirement in subsection (2)(iv), and assure that the letter was coming from a qualified wildlife rehabilitator.

Change: In subsection (5) Raptor rehabilitation endorsement, (d) the sentence was modified for clarification.

Rationale: This was added to be consistent with the general wildlife rehabilitation permit requirement in subsection (2)(iv) and large carnivore endorsement in subsection (4)(iii), and assure that the letter was coming from a qualified wildlife rehabilitator.

Change: In subsection (6) Raptors-only rehabilitation permits, (c) the sentence was modified for clarification.

Rationale: This was added to be consistent with the general wildlife rehabilitation permit requirement in subsection (2)(iv) and large carnivore endorsement in subsection (4)(iii), and assure that the letter was coming from a qualified wildlife rehabilitator.

Change: In subsection (7) Oiled-wildlife rehabilitation endorsement, (b) the word "alcid" was replaced with wildlife.

Rationale: Word change to correct an error and include all wildlife.

Supplemental Recommended Adjustments:

Change: In subsection (2)(a)(iv) added the word "and" and deleted the word "modified," and "or."

Rationale: "Modified" may present some confusion because permits can be modified in the form of a requested amendment by permittee, not necessarily because of permit and rule violations. This also addresses the public comment concern that modifying a permit may prevent a wildlife rehabilitation permit or endorsement candidate from obtaining a letter of recommendation from the permittee for possible unrelated species issues and negating all hours spent training at that facility.

Change: In subsection (3)(a) changed "rehabilitative" to "and rehabilitate."

Rationale: Incorrect word.

Change: In subsection (4)(a)(i) added "at the discretion of the department and on a case by case basis, wildlife biologists professionally employed as a large carnivore biologist with five hundred or more hours of documented experience may substitute a portion of the required hours for direct handling and experience."

Rationale: This language was added in response to public testimony. Professional large carnivore biologists are knowledgeable about large carnivore biology, behavior, and natural history, important to wildlife rehabilitation. If they are experienced field biologists in handling or controlling large carnivores, they are aware of safety for both humans and the animals, and capable of handling these animals.

Change: In subsection (4)(a)(iii) added the word "and" and deleted the word "modified," and "or."

Rationale: "Modified" may present some confusion because permits can be modified in the form of a requested amendment by permittee, not necessarily because of permit and rule violations. This also addresses the public comment concern that modifying a permit may prevent a wildlife rehabilitation permit or endorsement candidate from obtaining a letter of recommendation from the permittee for possible unrelated species issues and negating all hours spent training at that facility.

Change: In subsection (5)(d) added the word "and" and deleted the word "modified," and "or."

Rationale: "Modified" may present some confusion because permits can be modified in the form of a requested amendment by permittee, not necessarily because of permit and rule violations. This also addresses the public comment concern that modifying a permit may prevent a wildlife rehabilitation permit or endorsement candidate from obtaining a letter of recommendation from the permittee for possible unrelated species issues and negating all hours spent training at that facility.

Change: In subsection (6)(c) replaced "... recommendation from a currently permitted wildlife rehabilitator" to "letter of recommendation from a current primary permittee in good standing and who has not had a suspended or revoked wildlife rehabilitation permit within the last three years."

Rationale: To make this phrase consistent with subsection (2)(a)(iv), (4)(a)(iii), and (5)(d) eliminating the word "modified."

WAC 220-450-080 Wildlife rehabilitation—Responsibilities of primary permittees and subpermittees.

Change: In subsection (1) Minimum standards for wildlife rehabilitation, capitalization was required.

Rationale: Minimum Standards for Wildlife Rehabilitation is the title of a book.

Change: In subsection (2) additional language was added for clarification.

Rationale: There are two categories of subpermittees, this addition makes it clear that primary permittees are responsible for both categories.

Change: In subsection (2)(c) language was removed and added for clarification.

Rationale: The removal makes it clear that primary permittees must visit off-site subpermittees to oversee and manage properly the wildlife under their care. The written record allows the department to verify that visits were conducted.

Change: In subsection (2)(d) clarification language was added.

Rationale: Welfare of wildlife is of primary concern, and reviewers felt another step requiring a primary permittee to regularly schedule visits and reporting would help assure good care.

Change: In subsection (2)(e) clarification language was added.

Rationale: Qualifications are different for on-site and off-site subpermittees, therefore, the distinction was added that the on-site subpermittee is authorized for this responsibility.

Change: In subsection (2)(f) language was added for clarification.

Rationale: Again, there are two categories of subpermittees, therefore, the distinctions must be made in the rule.

Change: In subsection (3)(c) language was added to require stricter qualifications for subpermittees.

Rationale: Both categories of subpermittees must be qualified to properly care for wildlife either at the primary facility or the subpermittee facility. These requirements were lacking in the previous WAC. The wildlife rehabilitation advisory committee felt that the requirements must [be] added to ensure proper care of wildlife.

WAC 220-450-090 Wildlife rehabilitation—Permit modification, suspension, or revocation.

Change: In subsection (1)(a) added clarifying wording.

Rationale: It is permissible for wildlife rehabilitators to display wildlife remotely through camera monitors, CCTV, or one-way sound proof glass, and is not a revocable offense, which was not made clear in the original language.

Change: In subsection (1)(b) detail was add[ed] for clearer interpretation.

Rationale: A definition was added to aid in compliance and enforcement, and leave less room for interpretation of the term.

Change: In subsection (1) added an additional violation was added.

Rationale: Wildlife rehabilitation advisory committee reviewers felt that clearly stating the separation of predators and prey, and improper association of species as violations was necessary to safeguard against this activity and ensure safety and welfare of the wildlife in rehabilitation.

Change: In subsection (2)(a) corrected word.

Rationale: Previous words did not make sense.

Change: In subsection (2)(b) clarifying and detailing language added.

Rationale: Addition was in response to concern that timelines were too short. Details were added to explain that timelines within compliance plans are case specific and individually set according to remedies.

Change: In subsection (3) changed "will" to "may."

Rationale: There may be cases where inspections are not necessary or mandatory, therefore, the department is given the opportunity to make that determination.

Change: In subsection (3) deleted incorrect sentence and added correct wording.

Rationale: There may be cases where inspections are not necessary or mandatory, therefore, the department is given the opportunity to make the determination to restore or amend a permit without the need for inspection.

Supplemental Recommended Adjustments:

Change: Changed title from "Permit revocation, modification, or suspension" to "Permit modification, suspension, or revocation."

Rationale: This reversal of words reflects the step-wise order of compliance beginning in subsection (2)(a).

Change: In subsection (1)(a) "Publicly displaying wildlife in rehabilitation or using wildlife in rehabilitation for public education" to "Directly displaying to the public wildlife in rehabilitation or directly using wildlife in rehabilitation for public education."

Rationale: The purpose of this rule is to protect wildlife from stress and human disturbance. Wildlife in rehabilitation may be displayed remotely or indirectly to the public by cameras, CCTV, or one-way sound-proof glass because there are no adverse impacts or disturbances to the wildlife. Because wildlife facilities use these techniques to educate the public about wildlife and rehabilitation, there were fears that their permit would be in jeopardy for "displaying" wildlife.

Change: In subsection (2)(a) replaced the words "and at" with "after."

Rationale: No clear time was given for when the modification remedy could be done and the word "after" better designates a time.

Change: Language changed in subsection (2)(b) to "the permit will be suspended and a requirement to adhere to a department-provided corrective action plan and timeline(s) in the corrective action plan will be imposed. The permittee must provide a response to, and apply compliance plan remedies within the timelines specified in the compliance plan."

Rationale: In response to a comment regarding length of time in which to comply with department corrections and remedies, language was changed in this clause to make the remediation more understandable. There are timelines within the corrective action plans that are individually set case-by-case according to circumstances of the violations.

Change: In subsection (3) replaced "will" with "may."

Rationale: There may be times when an inspection is not needed and the flexibility of doing an inspection or not should be open to the department.

Change: In subsection (3) deleted the sentence "The permittee may receive permit amendment of restoration pending permittee compliance and department-documented validation inspection." Replaced it with "The department may

amend the permit or restore the permit pending permittee compliance and department-documented compliance validation."

Rationale: The wording is less confusing and better states the intent.

WAC 220-450-100 Wildlife rehabilitation—Facility requirements and inspections—On- and off-site care.

Change: In subsection (2) Facilities, (f) replaced the words "of stock" with "of wildlife" in care.

Rationale: Stock is an improper word for wildlife and not used in the definitions for wildlife.

Change: In subsection (2) Facilities, (h) added language for clarification.

Rationale: The new wording makes it clear that wildlife may be transferred back to the wildlife rehabilitation facility once a primary permittee is associated with that facility.

Change: In subsection (3) removed language for clarification.

Rationale: This sentence became redundant with the above section and subsection and therefore removed.

Change: In subsection (4) Oiled-wildlife facility requirement, changed the sentence structure for better clarification.

Rationale: Recommended by the department's oil spill team that it was understood by all wildlife rehabilitators.

Change: In subsection (5) added, Oiled-wildlife facility requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled-wildlife facilities.

Change: In subsection (6) added, Oiled-wildlife facility requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled-wildlife facilities.

Change: In subsection (6)(a) replaced "or" with "of."

Rationale: Erroneous word.

Change: In subsection (7) added oiled-wildlife facility requirements. Intake space requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled-wildlife facilities.

Change: In subsection (8) added oiled-wildlife facility requirements. Stabilization resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled-wildlife facilities.

Change: In subsection (9) added oiled-wildlife facility requirements. Wash/rinse resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled-wildlife facilities.

Change: In subsection (10) added oiled-wildlife facility requirements. Drying resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled-wildlife facilities.

Change: In subsection (12) added oiled-wildlife facility requirements. Semi-static areas.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled-wildlife facilities.

Change: In subsection (12)(ii) added wording for necessary direction.

Rationale: Two items were identified by the oil spill team as acceptable for accomplishment off-site.

Change: In subsection (13) added oiled-wildlife facility requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled-wildlife facilities.

Change: In subsection (13)(c)(iii) added wording for necessary direction.

Rationale: This item was identified by the oil spill team as acceptable for accomplishment off-site.

Change: In subsection (13)(c) removed (iv) Electrical: One hundred square feet and (v) Mechanical: Two hundred square feet.

Rationale: Requested by the department's oil spill team because these capacities are already existing in the facilities, so additional space for mechanical and electrical is not needed.

Change: In subsection (14)(c)(ii) removed European starling and added hummingbirds.

Rationale: European starling was removed to discourage the rehabilitation and release of this species. Wildlife rehabilitation advisory committee reviewers suggested the addition of hummingbirds because of their need for overnight care.

Change: In subsection (14)(c)(vii) language was removed and added to this section for compliance with veterinary regulations.

Rationale: By law, veterinarians are the only practitioners in wildlife rehabilitation that can prescribe treatment. Primary permittees may direct subpermittees in husbandry and rehabilitation, and explain veterinarian prescribed treatment.

Change: In subsection (14)(c)(viii) language was removed and added to this section for wildlife welfare purposes.

Rationale: The requirement to return an animal to the primary facility for release evaluation was removed to decrease the number of times animals must be transported but still requires assessment for release by the primary permittee.

Change: In subsection (14)(e) add[ed] wording.

Rationale: Restriction was added in response to wildlife rehabilitator concerns that subpermittees are not experienced enough to practice on their own.

Supplemental Recommended Adjustments:

Change: Added in subsection (12)(b)(ii)(C) and (D) may be accomplished off-site.

Rationale: This addition was requested by the Washington department of fish and wildlife (WDFW) oil spill team because capacity is needed on-site, moving wildlife off-site will not affect animal care.

Change: Added subpermittee may not operate their own facilities.

Rationale: Added in response to comments that subpermittees are not permitted to practice wildlife rehabilitation

without an association with a primary permittee and may not perform all wildlife rehabilitation tasks and duties.

WAC 220-450-110 Wildlife rehabilitation—Releasing wildlife.

Change: In subsection (5)(e)(iii) added language to allow for care of amphibians.

Rationale: Wildlife rehabilitators must be allowed to feed reptiles and amphibians food purchased from reputable suppliers, therefore, language was added to allow for that. The previous sentence prohibited that practice.

WAC 220-450-120 Wildlife rehabilitation—Veterinary care.

Change: In subsection (1) edits to comply with state veterinary regulations.

Rationale: Veterinarians must report reportable diseases to the state, and some were uncomfortable with the previous language.

WAC 220-450-130 Wildlife rehabilitation—Records retention and reporting requirements.

Change: In subsection (1) added the word written and removed records.

Rationale: Reviewers asked for clarification on how to verify volunteer records. Forms will be supplied to wildlife rehabilitators.

Change: In subsection (3) added clarifying language.

Rationale: The person required to submit the report was not clear and could cause confusion, therefore "primary permittee" was added.

Change: In subsection (3) removed language for simplicity.

Rationale: "Prior year's records" is the definition of daily ledger, therefore redundant.

Change: In subsection (5) added language.

Rationale: Reviewers asked for this addition to make sure that, for ease of submission, it was an acceptable method of record submission.

Supplemental Recommended Adjustments:

Change: In subsection (3) the language "The primary permittee must" was added.

Rationale: This clarified that it is a requirement for permittees to submit an annual report and daily ledger every year.

WAC 220-450-140 Wildlife rehabilitation—Falconers assisting with raptor rehabilitation.

Change: In subsection (1) language was added for clarification.

Rationale: Falconers may not raise any raptor orphans for purposes of rehabilitation which was not previously clearly stated, therefore hatchlings was added to avoid misunderstanding; misspelling of "nestling" was corrected.

Change: In subsection (4) Allowable activity for raptor conditioning was added.

Rationale: Public comment indicated that there was confusion as to where raptors in the conditioning phase could be housed. Therefore, we reinstated the clause that it is permissible for raptors to be housed at an approved falconry facility where the raptor is being conditioned.

Change: In subsection (4) language was removed for clarification.

Rationale: The department does not have the facilities or capacity to care for nonreleasable raptors. We will assist rehabilitation facilities in placement.

Change: In subsection (5) language was added for clarity and understanding.

Rationale: The primary goal of wildlife rehabilitation is release to the wild, therefore the wildlife rehabilitation advisory committee felt it was counter to that goal for a falconer to acquire a bird for falconry after assisting with conditioning for release.

Supplemental Recommended Adjustments:

Change: Added that a falconer may house a raptor undergoing conditioning for release at an approved falconry facility that does not meet wildlife rehabilitation facility standards so long as the falconry facility meets the standards under department rule for housing raptors.

Rationale: Response to public comment. Falconers are permitted to condition raptors for release held on a primary permittee's wildlife rehabilitation permit. Public comment indicated that there was confusion as to where the raptor could be housed. It is permissible for the raptor to be housed at an approved falconry facility where the raptor is being conditioned.

WAC 220-450-150 Wildlife rehabilitation—Transfer, import, and export of wildlife and restrictions.

Change: In subsection (1) incorrect term was replaced with correct term.

Rationale: Certificate of veterinary inspection is the title of the document required by Washington state department of agriculture to import an animal into the state. The inspection (examination) must be done by a United States Department of Agriculture certified veterinarian.

Change: In subsection (4)(b) "beaver" was added.

Rationale: This was requested by WDFW game program to coincide with beaver management.

Change: In subsection (c) language was removed for clarity.

Rationale: The term "among" was redundant in this case.

Change: In subsection (4)(c) language was added.

Rationale: This addition allows for regulated and monitored transfer of cervids in certain instances and under specific conditions.

Change: In subsection (4) a subsection was added.

Rationale: WDFW is very concerned about transmission of existing and emergent cervid diseases into and within Washington, and must protect the wild populations from disease infection. This section was added to strengthen restrictions on artificial cervid movement and transport around the state.

Change: In subsection (4)(d) language was added and deleted for clarification purposes.

Rationale: Reviewers were confused by the existing wording.

WAC 220-450-160 Wildlife rehabilitation—Possession of dead wildlife and wildlife parts.

Change: In subsection (2) to correct a spelling error.

Rationale: The word "rectrices" was missing the c.

Change: In subsection (3) language was added for consistency.

Rationale: This rule applies to all wildlife, not just birds, therefore the terms were corrected.

WAC 220-450-170 Wildlife rehabilitation—Disposition of nonreleasable and over-habituated, mal-imprinted, and tame wildlife and live retention for foster and education.

Change: In the title, changed mal-habituated to over-habituated.

Rationale: The term mal-habituated is rarely used therefore not easily understood. Over-habituated is more descriptive and more easily defined in the text of the WAC.

Change: In subsection (1)(b) added "static" in front of display and "program" in front of education.

Rationale: There are two types of public education, static display are animals that remain in cages for viewing, program animals are those that are removed from cages and used in an education program or presentation such as a raptor on the fist. Many species of animals are inappropriate for active programs, and must be protected through this rule by distinguishing the two types of education.

Change: In subsection (1)(c) replaced "of" with "or."

Rationale: This was a misspelling.

Change: In subsection (1)(e) language was added for clarification.

Rationale: WDFW strictly discourages exhibiting wildlife as pets. This language was added with the intent to make that clearer.

Change: In subsection (1)(f) language was added for clarification.

Rationale: It is critically important that all caution is taken not to tame, over-habituate (some "habituation" is needed in wildlife rehabilitation facilities to decrease stress on the animal), or imprint wildlife in a wildlife rehabilitation facility. The clearer the terms are presented, the more likely it can be avoided by wildlife rehabilitators, and evaluated by enforcement agents. The words static display and programs were again inserted to distinguish between the two types of uses of wildlife as education animals.

Change: In subsection (1)(k) language was added for clarification.

Rationale: Many species of wildlife are inappropriate as education animals, both in static display and in programs. Paying close attention to the wildlife rehabilitation advisory committee and other reviewers, these species were added to protect as many as possible from poor quality of life.

Supplemental Recommended Adjustments:

Change: Changed the WAC title from: "Wildlife rehabilitation—Disposition of nonreleasable and over-habituated, mal-imprinted, and tamed wildlife and live retention for foster and education" to "Wildlife rehabilitation—Disposition of nonreleasable and over-habituated, mal-imprinted, **or** tamed wildlife and live retention for foster and education."

Rationale: Wildlife does not need to meet the criteria for all three conditions, just one.

WAC 220-450-180 Wildlife rehabilitation—Euthanizing wildlife.

Change: In the first paragraph, added the word using to complete the sentence structure.

Rationale: The word "using" was inserted upon suggestion from a reviewer for ease of interpretation.

WAC 220-450-190 Wildlife rehabilitation—Disposing of wildlife remains.

Change: Replaced the word "burned" with "incinerated."

Rationale: The department veterinarian recommended the word incinerated as a more appropriate term for the action.

Change: In subsection (1)(c) removed and replaced with correct language.

Rationale: Several wildlife rehabilitators clarified that the United States Fish and Wildlife Service does not impose a thirty day deadline on sending eagle carcasses to the National Repository, therefore the department did not want a restriction beyond what the federal guidelines require. Rehabilitators often wait to send eagle carcasses in large batches which can be more than thirty days.

WAC 220-450-200 Wildlife rehabilitation—Commercial uses.

Change: In subsection (4) added the words "wild" and "static" to the sentence.

Rationale: "Wild" was suggested by a reviewer to reinforce the nature of the animal, such as opposed to captive-bred. "static" was added to conform to the term "static display" in the associated WAC, and make the distinction that these animals are not used in programs.

Change: In subsection (7) refined the sentence structure.

Rationale: The sentence did not thoroughly define the term "hacking" omitting any suggestion of the provision of food. The placement of the word "temporary" was especially problematic implying that the birds may eventually be permanently possessed.

Change: In subsection (10) added a description to clarify imprinting.

Rationale: Imprinting is a difficult word to define in the context of wildlife rehabilitation and subject to dispute, therefore any additional detail to the definition is essential.

Change: In subsection (23) added clarification language.

Rationale: There are two categories of subpermittees needing description in order to correspond to the associated WAC.

Change: In subsection (23) removed unnecessary language.

Rationale: "At the facility" was made redundant with language in the new definition.

Change: In subsection (25) added a description to clarify veterinary summaries.

Rationale: The term is in corresponding WAC but was not defined, therefore, wildlife rehabilitators could not know exactly what they needed to submit for compliance.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 15, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 9, 2019.

Brad Smith, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-060 Definitions—((Oiled wildlife and)) Wildlife rehabilitation permits. For the purposes of WAC 220-450-070 through 220-450-220, the following definitions apply:

(1) "Bird" means any wild animal of the class Aves.

(2) "Dedicated workspace" means the minimum amount of floor space necessary to maintain access to oiled bird rehabilitation pens.) "Alcid" means a bird of the family Alcidae. The alcid family includes murres, guillemots, auklets, puf-fins, and murrelets.

(2) "Daily ledger" means a record, kept current daily and available for inspection, documenting all wildlife admissions, transfers, releases, and deaths; reason for admission; case number, date of admission; date of release, transfer, euthanasia, or other type of disposition; any tag or band numbers.

(3) "Director" means the director of the department of fish and wildlife or his or her designee.

(4) "Drying resources" mean the floor space and pen requirements associated with the removal of water from the skin and feathers of a bird.

(5)) "Education animal" means a permanently injured or otherwise nonreleasable wildlife permitted to be kept in permanent confinement on public static display or used in educational programs.

(5) "Euthanasia" means compassionate killing with a minimum of pain and distress, in a timely manner, and safely to prevent disease transmission, public health or human safety risks, or prolonged or unrelenting animal suffering due to illness, injury, unremitting pain.

(6) "Foster" means to serve as a conspecific surrogate parent or conspecific companion to wildlife in rehabilitation.

(7) "Habituate" means an animal stops responding to frequently occurring stimuli (like noises, sights or smells) because no negative consequences occur; it may be temporary and reversible or behavior may become ingrained (i.e., taming) and prevent return to the wild. See "Tame."

(8) "Hacking" means ((the release, sometimes temporary, of a raptor to the wild so that it may survive on its own.

(6)) to transition a young raptor using temporary release to the wild and allowing it to return for food and shelter while learning to hunt and survive on its own.

(9) "Humane" means providing care such as water, food, safe handling, clean facilities, medical treatment, and euthanasia if needed, and conditions including environments sensitive to species-typical biology and behavior, with the intent to minimize fear, pain, stress, and suffering.

(10) "Imping" means a method of replacing a broken feather with an undamaged feather ((by cutting the shaft of

the broken feather on the bird, trimming the replacement feather to the correct length, and gluing the shaft of the replacement feather to the shaft of the broken feather)).

((7)) (11) "Imprinting" means ((when a very young animal fixes its attention on and follows the first object or creature it sees, hears, or touches, and)) a period of rapid learning occurring during a brief critical period typically soon after birth or hatching that establishes a strong and long-lasting attachment to a specific individual or object, such as to a parent where the animal becomes socially, and later sexually, bonded to that object or creature, identifying itself ((as whatever)) irreversibly as the species it imprints upon.

((8) "Indoor area" means the space within an oiled bird rehabilitation facility in which the air temperature and exchange of air can be controlled and maintained. Indoor areas can include oiled bird rehabilitation pools, morgues, freezers, isolation/intensive care units, medical laboratories, laundry and storage facilities, and electrical and mechanical equipment. These areas may consist of space for conducting intake, prewash holding, washing and rinsing, drying, necropsy, and preparing bird food.

(9) "Intake space" means the minimum amount of floor space necessary to admit live or dead birds into an oiled bird rehabilitation facility.

(10) "Mesh size" means the measured distance between one vertical side of a mesh unit and the opposite vertical side of the same mesh unit when the netting is pulled taut.

((11)) (12) "Mal-imprinting" means imprinting on a species not its own, preventing the animal's return to the wild.

(13) "Nonreleasable" means wildlife that cannot be released with a reasonable potential for survival in the wild due to physical or psychological impairment, such as the inability to express species-specific appropriate behavior, including the ability to hunt or forage, recognize threats; or is tamed or mal-imprinted.

(14) "Oil" means oil of any kind and any form, such as petroleum and nonpetroleum oils including, but not limited to, crude oil and refined petroleum products, animal fats and vegetable oil, other oils of animal or vegetable origin, and other nonpetroleum oils.

((12) "Oiled bird" means a bird that has come in contact with oil.

(13) "Oiled bird rehabilitation pen" means an enclosure used to hold birds during oiled bird rehabilitation.

(14) "Oiled bird rehabilitation pool" means a container filled with fresh water used during the rehabilitation of oiled birds.))

(15) "Oiled ((bird)) wildlife rehabilitation" is a specialized form of wildlife rehabilitation and means the process of caring for oiled ((birds)) wildlife during intake, ((prewash holding)) stabilization, washing and rinsing, and drying, to allow the ((birds)) wildlife to return to their natural habitat. This form of rehabilitation includes keeping the birds in pools and providing semi-static and static areas with steady air temperatures and air exchanges while the birds are in the rehabilitation facility).

(16) "Oiled ((bird)) wildlife rehabilitation facility" is a specifically permitted type or portion of a wildlife rehabilitation facility ((and means the indoor and outdoor areas)) used for the rehabilitation of oiled ((birds)) wildlife.

(17) ("Outdoor area" means an area within an oiled bird rehabilitation facility that does not fit the definition of an indoor area.

(18)) "Orphan-imprinting" means to use conspecific wildlife for the purpose of feeding, socializing, and teaching appropriate wild behavior to young wildlife.

((19)) "Permit" means a wildlife rehabilitation permit without any additional endorsements.

(20) "Prewash holding resources" mean the floor space and oiled bird rehabilitation pen capabilities of an oiled bird rehabilitation facility to hold birds after intake and prior to washing.

((21)) (18) "Patient record" means a record, kept current daily and available for inspection, documenting each wildlife animal's species, age and sex; daily care including feeding, watering, and cleaning; medical care; and veterinary notes regarding treatment and health of wildlife in the permittee's care.

(19) "Primary permittee" means the person listed on the wildlife rehabilitation permit who ((originally applied)) applies for and ((received the permit and is licensed to practice)) receives a wildlife rehabilitation((.

((22)) permit and is responsible for monitoring and approving any subpermittee's conduct and practices; also, "wildlife rehabilitator."

(20) "Principal veterinarian" means a licensed veterinarian who agrees, in writing, to ((assist, direct, and oversee a wildlife rehabilitator in conducting)) provide and direct, timely, appropriate veterinary medicine in conjunction with wildlife rehabilitation services and activities.

((23)) (21) "Public display" means to place or locate wildlife so that they may be viewed by the public.

((24)) "Semi static areas" mean dedicated indoor spaces within an oiled bird rehabilitation facility where the required size of the space will vary relative to the number of birds to be rehabilitated. These include areas for preparing bird food, conducting necropsies, and storing and freezing items.

(25) "Static areas" mean dedicated indoor spaces within an oiled bird rehabilitation facility where the required size of the space does not vary, regardless of the number of birds to be rehabilitated. These areas include isolation/intensive care units, medical laboratories, laundry facilities, and electrical and mechanical equipment.

((26)) (22) "Record" means the wildlife rehabilitation permit(s) associated with a particular facility and permittee(s); daily ledger; patient records; and annual wildlife rehabilitation reports.

(23) "Stabilize for transport" means life-threatening injuries are addressed including patient airway is clear, patient is hydrated, hemorrhage is controlled, shock is treated, and broken bones are immobilized.

(24) "Subpermittee" means person or persons listed on the primary permittee's ((also "wildlife rehabilitator")) wildlife rehabilitation permit who care for wildlife ((away from the rehabilitation)) either at the facility as the primary caretaker in the primary permittee's temporary absence or at an off-site facility with the permission and under the direction of the primary ((licensed wildlife rehabilitation permittee ("primary permittee"))). The primary permittee is responsible

for monitoring and approving the subpermittee's conduct, practices, and facilities.

(27)) permittee.

(25) "Tame" means an animal, such as wildlife, purposefully seeks out human company and social interaction, care, or attention, does not reject human handling, and learns to not fear humans, all of which prevents the animal's return to the wild.

(26) "Veterinarian" means a licensed veterinarian.

((28)) "Wash/rinse resources" mean the water, cleaning agent, and space requirements necessary to remove oil from the skin and feathers of a bird.

((29)) (27) "Veterinary summaries" means those findings, treatments, and directives written by a veterinarian in summary form and submitted to the wildlife rehabilitation facility.

(28) "Wildlife rehabilitation" means the care and treatment of injured, diseased, oiled, or ((abandoned)) orphaned wildlife((,)) including, but not limited to, capturing, transporting, treating, feeding, housing, and conditioning animals so they can be released back to the wild.

((30)) (29) "Wildlife rehabilitation facility," or "facility," means the authorized site(s), as shown on the wildlife rehabilitation permit, where treatment and rehabilitation of wildlife takes place.

((31)) (30) "Wildlife rehabilitation permit" means a permit issued by the director that authorizes a person to practice wildlife rehabilitation.

((32)) (31) "Wildlife rehabilitator" means a person who conducts wildlife rehabilitation and possesses a current wildlife ((rehabilitator)) rehabilitation permit from the department.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-070 Wildlife rehabilitation permits—

Requirements and restrictions. (1) ((All wildlife held under a wildlife rehabilitation permit remains the property of the state and is subject to control by the state.)) **Purpose.** The purpose of the wildlife rehabilitation permit is to ensure that humane care and treatment is provided for wildlife in rehabilitation including all aspects of animal welfare as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation with the goal of relieving suffering and release back to the wild.

(a) All wildlife held under a wildlife rehabilitation permit remains the property of the state held in trust for Washingtonians and is controlled and regulated by the state.

(b) A wildlife rehabilitation permit is required to take, temporarily possess, and transport wildlife for the purpose of rehabilitation, with the following exceptions:

(i) **Public transport.** Members of the public may capture and transport injured and orphaned wildlife if it is safe to do so to a wildlife rehabilitation facility; the public must transport injured wildlife to a permitted wildlife rehabilitator within twenty-four hours.

(ii) Veterinary care. Veterinarians without a wildlife rehabilitation permit may provide stabilization for transport or euthanize wildlife for humane reasons; veterinarians without a wildlife rehabilitation permit must arrange transport for orphaned or injured wildlife within forty-eight hours to a permitted wildlife rehabilitator.

(2) Wildlife rehabilitation permits.

(a) The department may issue a wildlife rehabilitation permit if the applicant:

(i) Is at least eighteen years of age;

(ii) Completes and submits a current application form to the department's wildlife rehabilitation manager;

((iii)) (iii) Demonstrates completion of at least six months, or one thousand hours, of experience in wildlife rehabilitation under the direct supervision of a wildlife rehabilitator. At least three months, or five hundred hours, of this experience must occur during the spring or summer. This training and experience must be completed within a three-year period. The department, at its discretion, may consider education in wildlife rehabilitation to suffice as a partial substitute for experience;

((iv)) (iv) Submits to the department a written letter of recommendation from a ((wildlife rehabilitator)) current primary permittee in good standing and who has not had a suspended or revoked wildlife rehabilitation permit within the last three years and who has two or more years of experience in wildlife rehabilitation ((and who agrees to advise the applicant in performing wildlife rehabilitation));

((v)) (v) Submits to the department a ((written agreement)) signed Principal Veterinarian Agreement form from a veterinarian who is willing to serve as the principal veterinarian for the applicant;

((vi)) (vi) Successfully completes the Washington state general wildlife rehabilitation examination by correctly answering eighty percent or more of the questions. An applicant who fails the exam may retake it beginning fourteen days from the date of the failed exam; and

((vii)) (vii) Possesses, is employed by, or volunteers at ((suitable)) facilities that ((are inspected and approved by the department)) have been inspected and approved by the department and meet department standards, and meet current minimum standards for wildlife rehabilitation as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation. New wildlife rehabilitation permits must be signed and returned to the department by the permittee no later than fourteen days from the date of receipt.

A new wildlife rehabilitation permit is only valid when signed by the permittee and the department permitting representative.

(b) Veterinarians are exempt from the requirements in (a)((ii) through)) (iv) and (v) of this subsection; veterinarians may be partially exempt from the requirements in (a)(iii) of this subsection if their formal education or practical training is in wildlife medicine. Applicants living in states with boundaries contiguous with Washington state whose wildlife rehabilitation activities occur in Washington, for Washington wildlife, and/or has or works for a facility in Washington may apply for a Washington wildlife rehabilitation permit.

(c) The department will determine which species the wildlife rehabilitator is qualified to care for and may ((tailor)) condition the permit according to the applicant's training, experience, capabilities, and facilities.

Inactive permit applications. Permit applications greater than three years old from the date of signature will be classified as inactive. Applicant must submit a new complete and current application to be considered. If exam was taken greater than three years from the date of the new application, the applicant must retake the exam.

(d) Wildlife rehabilitators must display the wildlife rehabilitation permit or a copy of the permit in a location at the facility that is visible to the public.

(e) Wildlife rehabilitation permits are valid for up to three years, as long as the information on the permit remains valid and current and the permittee adheres to permit conditions and department rules.

(f) Wildlife rehabilitators must report any permit information changes to the department within ten business days of the change. These changes include:

(i) Permitted rehabilitator leaving the facility;

(ii) Subpermittees leaving the facility;

(iii) Major changes or additions in animal housing and enclosures that would affect number of individuals and/or permitted species;

(iv) Change in principal veterinarian;

(v) Facility address;

(vi) Adding facilities.

(g) The department may refuse to issue a wildlife rehabilitation permit to an applicant if within the last ten years of the date of the application the applicant:

(i) Was convicted of a fish or wildlife offense; or

(ii) Was convicted of any offense involving animal or child cruelty ((or neglect, or child abuse or neglect.

(3)) neglect, or abuse.

(iii) Found guilty of practicing veterinary medicine without an active license, as determined by the veterinary board of governors.

(iv) Fails to meet any of the above requirements.

(3) Cervid endorsement.

(a) A person must possess a cervid rehabilitation endorsement to house and rehabilitate cervids;

(b) Must have completed hands-on training hours for one complete season March through October focused on cervid wildlife rehabilitation with a current primary permittee endorsed for cervid rehabilitation, and submit to the department a written letter of recommendation from that primary permittee;

(c) Must attend the cervid training provided by the department, which may include updated training at time of permit renewal; and

(d) Possess department inspected approval facilities suitable for cervid species listed on the permit and as required by department rules and the current standards as stated in the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(4) Large-carnivore rehabilitation endorsement.

((a)) A person must possess a large-carnivore rehabilitation endorsement to rehabilitate large carnivores. Large carni-

vores are brown bear, black bear, cougar, wolf, bobcat, and lynx. The department may issue large-carnivore endorsements to wildlife rehabilitators who:

((i)) (a) Have at least ((three months, or)) five hundred documented hours, of direct safety, handling, and medical care in a current wildlife rehabilitation practice with ((and handling of)) large carnivores; at the discretion of the department and on a case-by-case basis, wildlife biologists professionally employed as a large carnivore biologist with five hundred or more hours of documented experience may substitute a portion of the required hours for direct handling and experience;

((ii)) (b) Have received and documented training in large-animal restraint techniques, including ((knowledge)) demonstration of proper catchpole use and immobilization-drug administration;

((iii)) (c) Submits to the department a written letter of recommendation from a ((wildlife rehabilitator)) current primary permittee in good standing and who has not had a suspended or revoked wildlife rehabilitation permit within the last three years and who has two or more years of experience in large-carnivore rehabilitation ((and who agrees to advise the applicant in performing large carnivore rehabilitation));

((iv)) (d) Successfully completes the written large-carnivore rehabilitation examination by correctly answering eighty percent or more of the questions. An applicant who fails the exam may retake it beginning fourteen days from the date of the failed exam; and

((v)) (e) Possess department-inspected and department-approved facilities suitable for large carnivores as required by department rule and the current standards ((set by the International Wildlife Rehabilitation Council (IWRC) and the National Wildlife Rehabilitators Association (NWRA))

(b) Applicants are exempt from the requirements in (a)(i) and (iii) of this subsection if they are or were employed for at least three months or five hundred hours as a zookeeper or wildlife biologist with direct practice handling and housing large carnivores.

(4)) as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(5) **Raptor rehabilitation endorsement.** A person must possess a raptor rehabilitation endorsement to rehabilitate raptors. The department may issue raptor rehabilitation endorsements to wildlife rehabilitators who:

(a) Demonstrate ((one)) five hundred hours direct practice with and handling of raptors;

(b) Successfully complete the written raptor rehabilitation examination by correctly answering eighty percent or more of the questions. An applicant who fails the exam may retake it beginning fourteen days from the date of the failed exam;

(c) Possess department-inspected and department-approved facilities suitable for raptor housing and rehabilitation as required by department rule and ((the standards set by the IWRC and the NWRA)) as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation

Council's Minimum Standards for Wildlife Rehabilitation; and

(d) Submits to the department a written letter of recommendation from a ((wildlife rehabilitator)) current primary permittee in good standing and who has not had a suspended or revoked wildlife rehabilitation permit within the last three years and who has two or more years of experience in raptor rehabilitation ((and who agrees to advise the applicant in performing raptor rehabilitation)).

((5)) (6) **Raptors-only rehabilitation permits.** ((a)) The department may issue raptors-only rehabilitation permits that allow a person to rehabilitate only raptors and no other wildlife. To qualify for these permits, an applicant must:

(i) Demonstrate one hundred hours direct practice with and handling of raptors;

(ii) Successfully complete the raptor rehabilitation examination by correctly answering eighty percent or more of the questions. An applicant who fails the raptor rehabilitation examination may retake it beginning fourteen days from the date of the failed exam;

(iii) Submit to the department a written recommendation from a wildlife rehabilitator who has two or more years of experience in raptor rehabilitation and who agrees to advise the applicant in performing raptor rehabilitation; and

(iv) Possess department-inspected and department-approved facilities suitable for raptor housing and rehabilitation as required by department rule and IWRC/NWRA.

(b) General falconers licensed for three years or more and master falconers are exempt from the requirements in (a)(i) and (iii) of this subsection.

(6) **Oiled wildlife rehabilitation endorsement.** An oiled wildlife rehabilitation endorsement is required to rehabilitate oiled wildlife. The department may issue oiled wildlife rehabilitation endorsements to wildlife rehabilitators who possess or have permission to access or use department-inspected and department-approved facilities for oiled wildlife.

((7)) The department may issue raptor-only rehabilitation permits that allow a person to rehabilitate only raptors and no other wildlife. To qualify for these permits, an applicant must:

(a) Demonstrate five hundred hours direct practice with and handling of raptors;

(b) Successfully complete the raptor rehabilitation reexamination by correctly answering eighty percent or more of the questions. An applicant who fails the examination may retake it beginning fourteen days from the date of the failed exam;

(c) Submits to the department a written letter of recommendation from a current primary permittee in good standing and who has not had a suspended or revoked wildlife rehabilitation permit within the last three years and who has two or more years of experience in raptor rehabilitation and who agrees to advise the applicant in performing raptor rehabilitation; and

(d) Possess department-inspected and approved facilities suitable for raptor housing and rehabilitation as required by department rule and as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association.

ciation and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(7) Oiled-wildlife rehabilitation endorsement.

(a) A person must have an oiled-wildlife endorsement or written department approval to retain oiled wildlife. If the primary permittee does not possess an oiled-wildlife endorsement, the permittee must transfer the oiled wildlife to a primary permittee who has an oiled-wildlife endorsement, or obtain department approval to retain the oiled wildlife.

(b) The department may issue an oiled-wildlife endorsement to permitted rehabilitators who possess or have permission to use department-approved facilities suitable for oiled-wildlife rehabilitation as required by department rule. For minimum housing/pen and pool requirements for oiled species other than alcids, refer to the most current edition of the National Wildlife Rehabilitators Associations and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(8) Permittee-requested permit amendments. A wildlife rehabilitator may ask for permit amendments for:

(a) Changes to permitted species and capacity by submitting a revised species information page from the department-provided application;

(b) Changes to subpermittees by submitting the wildlife rehabilitation subpermittee application; and

(c) Addition of an education or foster animal by submitting the live animal retention application.

(9) Wildlife rehabilitation permit renewal. To renew a wildlife rehabilitation permit, the permittee must submit the following ((information)) documentation at least thirty days prior to ((his or her permit expiring)) the permit date of expiration:

(a) A ((new)) current, completed wildlife rehabilitation permit application form; and

(b) Documentation demonstrating ((ten hours or more)) at least thirty hours of continuing education during the previous three-year permit period. Continuing education includes:

(i) Documented attendance at state wildlife rehabilitator meetings((, NWRA annual meetings, or IWRC)) or at Washington Wildlife Rehabilitation Association conference, or National Wildlife Rehabilitators Association annual symposium((s));

(ii) A certificate of completion of an ((IWRC)) International Wildlife Rehabilitation Council online or in-person class or workshop;

(iii) Completion and documented attendance of privately offered wildlife rehabilitation training;

(iv) Completion and documented attendance of wildlife rehabilitation classes at a college or university;

(v) Documented department preapproved training with a currently licensed wildlife rehabilitator; or

(vi) Other continuing education activities as ((approved)) preapproved by the department((-(8)));

(vii) Renewed wildlife rehabilitation permits must be signed and returned to the department by the permittee no later than fourteen days from the date of receipt;

(viii) A renewed wildlife rehabilitation permit is valid only when signed by the permittee and the department permitting representative.

(10) Reinstatement of expired permits.

(a) A permit expired for less than three years may be reinstated for the facility and species listed on the expired permit ((so long as the facilities have not changed within that three-year period. If the facilities change after the permit expires, the department must inspect and approve the facilities before the permit is reinstated)) as long as the permittee meets the conditions for permit renewal.

(b) Permits expired for three years or more may be reinstated if:

(i) The applicant ((possesses facilities that meet the standards set by the department, the NWRA, and the IWRC's minimum standards for wildlife rehabilitation for treating and housing wildlife for rehabilitation;

(ii) The facilities are inspected and approved by the department; and)) submits a current and complete department provided wildlife rehabilitation permit application;

(ii) Possesses, is employed by, or volunteers at facilities that have been inspected and approved by the department and meet department standards for treating and housing wildlife for rehabilitation; meet current minimum standards for wildlife rehabilitation as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation;

(iii) The applicant takes and successfully completes the Washington general wildlife rehabilitation examination, the raptor rehabilitation examination, or large carnivore rehabilitation examination, whichever examination is applicable, by correctly answering eighty percent or more of the questions. An applicant who fails the examination may retake it beginning fourteen days from the date of the failed exam.

((9)) (11) Out-of-state wildlife rehabilitators. Wildlife rehabilitators who have a current wildlife rehabilitation permit or a comparable permit issued by another state, and who move to Washington state for the purpose of residency and wish to practice wildlife rehabilitation in Washington, must follow the same procedures and requirements as a new applicant for a Washington state wildlife rehabilitation permit((. However, out-of-state wildlife rehabilitators are exempt from the requirement of providing a letter of recommendation from another wildlife rehabilitator)).

((10)) (12) A violation of this section by a person who engages in wildlife rehabilitation without a department permit is punishable under the appropriate statute for the species being rehabilitated, including RCW 77.15.120 for endangered fish or wildlife; RCW 77.15.130 for protected fish or wildlife; RCW 77.15.400 for wild birds; RCW 77.15.410 for big game; and RCW 77.15.430 for wild animals not classified as big game.

((11)) (13) A violation of this section by a person who has a wildlife rehabilitation permit is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-080 Wildlife rehabilitation—Responsibilities of primary permittees and subpermittees. (1) ((A primary permittee on a wildlife rehabilitation permit is the person who applies for and receives the permit. A primary permittee may include other persons on his or her permit. These other people, known as "subpermittees," operate with the permission and under the direction of the primary permittee.)) Primary permittees and subpermittees are responsible for abiding by all permit terms and conditions, reporting and record requirements, and compliance with state and federal regulations when conducting wildlife rehabilitation or actions associated with wildlife rehabilitation and in accordance with the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(2) A primary permittee ((has the following responsibilities for his or her subpermittees:

(a) Ensuring that subpermittees listed on the permit abide by the permit's conditions and state and federal laws and regulations, when conducting wildlife rehabilitation practices or actions associated with wildlife rehabilitation on or off the facility premises; and

(b) Notifying)) is directly responsible for both on-site and off-site subpermittees' actions related to wildlife rehabilitation under his or her primary permit.

(a) The primary permittee must submit a completed application provided by the department for each subpermittee;

(b) A primary permittee may have no more than two off-site subpermittees at one time;

(c) A primary permittee must visit the off-site subpermittee at least once a week if the subpermittee has wildlife at his or her facility and is caring for wildlife; a written record must be kept for those visits;

(d) The primary permittee must submit a quarterly report of visits to and animals at off-site subpermittee facilities on the form provided by the department;

(e) An on-site subpermittee is authorized and responsible for managing the wildlife rehabilitation activities at the permitted facility in the temporary absence of the primary permittee; and

(f) A primary permittee must notify the department within ten business days of removing or adding a subpermittee or changing the address of ((a)) an off-site subpermittee's ((facilities)) facility using the application provided by the department.

(3) In addition to subsection (1) of this section subpermittees must also:

(a) Be listed on the primary permittee's wildlife rehabilitation permit;

(b) Be eighteen years of age or older;

(c) ((Be)) Been employed by or a registered volunteer for the primary permittee's wildlife rehabilitation facility and demonstrate at least three hundred documented hours at the facility, at least one month of this experience must occur during the spring or summer, have assisted with or observed all facets of wildlife care practices at the facility, and possess

sufficient experience to tend to the species in his or her care ((to the satisfaction of the primary wildlife rehabilitator and the department));

(d) Possess direct contact information for at least one other employee or volunteer of the permitted facility in addition to the primary permittee, who the subpermittee must be able to reach at any time; and

(e) ((Have read the National Wildlife Rehabilitators Association/International Wildlife Rehabilitation Council minimum standards for wildlife rehabilitation and retained a copy of the publication for reference; and

(f))) Comply with all federal Migratory Bird Treaty Act rules.

(4) A violation of this section by a primary permittee or a subpermittee is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-090 Wildlife rehabilitation—Permit ((revocation, modification, or suspension)) modification, suspension, or revocation. (1) The department may ((revoke,)) modify, ((or)) suspend, or revoke a wildlife rehabilitation permit if the primary permittee or a subpermittee violates any department rule related to wildlife possession, wildlife rehabilitation, wildlife trafficking, or permit conditions ((of the permit. Such)). Other violations include, but are not limited to:

(a) ((Violating a department rule;

(b) Failing to comply with permit conditions;

(c) Failing to provide adequate facilities for the care and housing of wildlife;

(d) Possessing a species of wildlife not expressly permitted in the wildlife rehabilitation permit or by department authorization;

(e) Failing to provide adequate care, feed for, or maintenance of the health of wildlife in the permittee's care;

(f) Treating wildlife in the permittee's care inhumanely, or negligently, or keeping the wildlife in unsanitary conditions;

(g) Publicly displaying)) Directly displaying to the public wildlife in rehabilitation or directly using wildlife in rehabilitation for public education ((or profit;

(h) Improperly handling, imprinting, habituation));

(b) Mal-imprinting, over-habituation to where animals lose fear of humans and predators, or taming wildlife in relation to humans or domestic animals at the facility; ((or

(i) Failing to maintain a daily patient log or ledger))

(c) Cohousing predators and prey in the same enclosure or room where prey can hear or see predators;

(d) A primary permittee or a subpermittee, within the last ten years, was:

(i) Convicted of a fish or wildlife offense; or

(ii) Convicted of any offense involving animal or child cruelty, neglect, abuse, or found guilty practicing veterinary medicine without an active license, as determined by the veterinary board of governors.

(2) A primary permittee who is in violation of permit conditions or department wildlife rehabilitation rules, or

whose subpermittee is in violation of permit conditions or department wildlife rehabilitation rules((, ~~except for oiled bird facility requirements as provided in WAC 220-450-210~~), may provide a corrective action plan to return to compliance. The primary permittee must provide the plan to the department within ten days of the notice of the violation. If the department accepts the plan for corrective action, it will allow the primary permittee at least thirty days to correct the permit violation. If the primary permittee fails to return to compliance by the deadline the department gave him or her, the department may revoke his or her permit.

(3)) shall, in this order:

(a) Receive written warning(s) outlining remedies and a deadline of not less than seven days to come into compliance after which time the department may impose permit modification to remedy those violations.

(b) If, after fourteen days, the permittee continues to be noncompliant, the permit will be suspended and a requirement to adhere to a department-provided corrective action plan and timeline(s) in the corrective action plan will be imposed. The permittee must provide a response to and apply compliance plan remedies within the timelines specified in the compliance plan.

(3) In conjunction with the written warning, permit modification or permit suspension, the department may conduct inspections to verify compliance. The department may amend the permit or restore the permit pending permittee compliance and department-documented compliance validation.

(4) A primary permittee will have the permit revoked if written warnings, permit modifications, compliance plan remedies, and permit suspension processes with concurrent inspections do not result in permittee compliance. Nothing in this section prevents the department from acting immediately to remove animals or suspend or revoke wildlife rehabilitation permits in case of documented animal cruelty or adverse animal welfare.

(5) If the department revokes, suspends, or modifies a permit, then the department or the U.S. Fish and Wildlife Service may seize ((and find a new rehabilitator for)) the primary permittee's wildlife and transfer those wildlife to another primary permittee's ((wildlife)) facility.

((4)) (6) The department's revocation, modification, or suspension of a rehabilitation permit under this section does not preclude the department from taking criminal action against the primary permittee, subpermittee, or both.

((5)) (7) The department may use subject matter experts, internal department staff, and external wildlife rehabilitators to review proposed permit modifications, suspensions, or revocations to determine if the proposed department actions reflect current standards of wildlife rehabilitation practice, meet current state wildlife rehabilitation needs, and are in the best interest of the future of wildlife rehabilitation in the state.

Permittees whose rehabilitation permit is revoked may reapply for a new permit three years after the date of revocation. Upon application, the department will consider previous rehabilitation permit performance and the nature of the previous noncompliance or violations when determining whether to issue a new permit. The department will deny an applica-

tion if the basis for revocation has not been, or is not likely to be resolved.

(8) Any primary permittee whose rehabilitation permit is revoked, modified, or suspended under this section may request an administrative hearing to appeal the department's action. The department will administer such appeals in accordance with chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-100 Wildlife rehabilitation—Facility requirements and inspections—On- and off-site care. (1) The facility requirements listed in this section address wildlife health and safety. The department of labor and industries and other local, state, or federal agencies may have additional requirements relating to human health and safety. It is the ((primary)) permittee's responsibility to comply with all state and federal laws and regulations, and to ensure that his or her subpermittees do the same.

(2) Facilities.

(a) ((Primary)) Permittees on a wildlife rehabilitation permit must maintain approved facilities that meet the ((standards set by the department, the)) most current edition of National Wildlife Rehabilitators Association ((NWRA), and the)) and International Wildlife Rehabilitation Council's ((IWR)) Minimum Standards for Wildlife Rehabilitation, unless as otherwise provided by the department. ((More information on facilities requirements is available at www.wdfw.wa.gov))

(b) All wildlife held under a wildlife rehabilitation permit must be maintained in humane((, healthful, and secluded)) conditions.

(c) The wildlife rehabilitation facility must protect wildlife from predators, weather extremes, undue human contact and ((noise, and domestic animals)).

(d) In-home)) visual and auditory stressors.

(d) The wildlife rehabilitation facility must provide physical and visual separation from on-site domestic animals.

(e) Wildlife rehabilitation facilities must designate separate and exclusive rooms used only for wildlife housing, treatment, feeding, food preparation, and rehabilitation. It is unlawful to house, treat, or ((handle wildlife in other parts of the residence. It is unlawful to house or treat)) care for wildlife anywhere human food is prepared, stored, or consumed.

((e))) (f) Primary permittee shall report immediately to the department any department surveilled wildlife disease. If the director determines that such outbreak presents a threat to the wildlife of the state, the director may immediately order such action as necessary including quarantine or destruction of wildlife in care, sterilization of enclosures and facilities, cessation of activities, and disposal of wildlife in a manner satisfactory to the director.

(g) The primary permittee must notify the department at least thirty days prior to moving if he or she intends to transfer his or her wildlife rehabilitation facilities to another location. The new facilities must pass a department facility inspection before wildlife is moved to the new facility.

((f)) (h) The wildlife rehabilitation facility must be associated with a primary permittee at all times. If a facility is

left with no primary permittees, facility personnel must notify the department within five days of the departure of the last primary permittee. The facility has thirty days in which to bring a primary permittee into the facility. After thirty days, if the facility is no longer associated with a primary permittee, the facility must transfer wildlife to another facility associated with a primary permittee until a primary permittee is found.

(3) All facilities must be listed on the permittees' permits.

(4) **Oiled-wildlife facility requirements.** The facility requirements described in this section address the health and safety of oiled alcids. For minimum housing/pen and pool requirements for species other than alcids, refer to the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(5) Oiled-wildlife facility requirements - Air temperature and air exchange requirements within indoor areas.

(a) Air temperature: A permittee must ensure that the air temperature in all indoor areas where live birds are housed is adjustable and can be maintained at between 65°F - 85°F. When the number of birds in an oiled bird rehabilitation facility at a given time exceeds fifty, the following requirements also apply:

(i) Intake and stabilization areas must be air-temperature controlled independently of other oiled bird rehabilitation facility areas. However, intake and stabilization areas may be controlled together;

(ii) Wash/rinse and drying areas must be air-temperature controlled independently of other oiled bird rehabilitation facility areas. However, wash/rinse and drying areas may be controlled together; and

(iii) The isolation/intensive care unit must be air-temperature controlled independently of other oiled bird rehabilitation facility areas.

(b) Air exchange: A permittee must ensure that all indoor areas where live birds are housed allow the exchange of the air volume a minimum of ten times per hour with fresh air from outside.

(c) The fresh-air exchange rate for any given indoor area may be reduced by up to ninety percent of the fresh air by use of an air-recirculation system that employs a high efficiency particulate air (HEPA) filter and an activated carbon filter.

(6) **Oiled-wildlife facility requirements.** When the number of birds in an oiled bird rehabilitation facility at a given time exceeds fifty, the following requirements also apply:

(a) Intake and stabilization areas must be independent of other oiled bird rehabilitation facility air-exchange systems, but they may be combined on the same air-exchange system;

(b) Wash/rinse and drying areas must be independent of other oiled bird rehabilitation facility air-exchange systems, but they may be combined on the same air exchange system;

(c) The isolation/intensive care unit air-exchange system must be independent of other oiled bird rehabilitation facility areas; and

(d) The morgue/necropsy air-exchange system must be independent of other oiled bird rehabilitation facility areas.

(7) Oiled-wildlife facility requirements - Intake space requirements. Intake of oiled birds must occur in an indoor area. Forty square feet of contiguous floor space must be provided for each group of sixty live or dead oiled birds, or portion of each group of sixty, that are awaiting intake. The floor of the intake space must be impermeable and water must not be allowed to accumulate on the floor.

(8) Oiled-wildlife facility requirements - Stabilization resource requirements. Stabilization must occur in an indoor area. Oiled bird rehabilitation pen space and the associated dedicated workspace must be provided in the stabilization area.

(a) Pen requirements: Oiled-wildlife pens must be constructed to minimize potential injury, provide ventilation and meet species-specific husbandry requirements as defined below or, for nonalcids, as documented in the current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(b) For oiled alcids, stabilization pens must be:

(i) At least two feet in length by two feet in width, by two feet tall;

(ii) Constructed with knotless nylon net-bottoms with a one-half inch mesh size;

(iii) Constructed so that no point within the pen is greater than two feet from a pen wall;

(iv) Constructed to provide a minimum of at least 1.6 square feet of pen space per bird.

(c) Space requirements: In addition to the space required for the oiled bird stabilization pens, a minimum of an additional 3.2 square feet of dedicated workspace must be provided in the stabilization area for each bird held in that area. The floor of the stabilization area must be impermeable and water must not be allowed to accumulate on the floor.

(9) Oiled-wildlife facility requirements - Wash/rinse resource requirements. Wash/rinse must occur in an indoor area. A bird must have wash/rinse space and associated resources made available within twenty-four hours after intake.

(a) Water requirements: A minimum of three hundred gallons of fresh water with the following characteristics must be available within each wash/rinse space for each oiled bird being washed and rinsed. All water requirements listed below must remain available within the specified range at all times.

(i) The water temperature must be adjustable and maintainable at any given temperature between 102°F - 108°F;

(ii) The water hardness must be maintained between 34 mg - 85 mg calcium carbonate/liter (2-5 grain hardness);

(iii) The water pressure must be maintained between 40 - 60 p.s.i.;

(iv) The water flow rate must be no less than two gallons per minute from the wash/rinse supply line measured with the wash/rinse nozzle in place.

(b) Space requirements: One hundred square feet of contiguous floor space must be provided for each group of sixteen live oiled birds, or portion of each group of sixteen, that are ready to be washed and rinsed. The floor of the wash/rinse area must be impermeable and water must not be allowed to accumulate on the floor. Wastewater from wash stations should be disposed of appropriately.

(10) Oiled-wildlife facility requirements - Drying resource requirements. Drying must occur in an indoor area. Oiled bird rehabilitation pen space and the associated dedicated workspace must be provided in the drying area. Drying must be accomplished by warming the air in the drying pen. The drying temperature must be adjustable and maintained at any given temperature between 90°F - 106°F.

(a) Pen requirements. Oiled-wildlife pens must be constructed to minimize potential injury, provide ventilation and meet species-specific husbandry requirements as defined below or, for nonalcids, as documented in the current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(b) For alcids, drying pens must be:

(i) At least two feet in length by two feet in width, by two feet tall;

(ii) Constructed with knotless nylon net-bottoms with one-half inch mesh size;

(iii) Constructed so that no point within the pen is greater than two feet from a pen wall;

(iv) Constructed to provide a minimum of 2.7 square feet of pen space per bird.

(c) Space requirements: In addition to the space required for drying pens, a minimum of an additional 3.2 square feet of dedicated workspace must be provided in the drying area for each bird held in that area. The floor of the drying area must be impermeable and water must not be allowed to accumulate on the floor.

(11) Oiled bird rehabilitation pool resource requirements. Oiled bird rehabilitation pools must be filled with fresh water. Oiled bird rehabilitation pool space must be available for use immediately after a bird has been dried, and must be available until the bird is released.

(a) Oiled bird rehabilitation pool requirements: Water from oiled bird rehabilitation pools may be recirculated within pools if the water is made oil-free. Each oiled bird rehabilitation pool must:

(i) Have dimensions so no point within the pool is greater than eight feet from a side of the pool;

(ii) Have a breathable cover available for use to prevent birds from escaping;

(iii) Have a constant supply of water sufficient to maintain a minimum depth of three feet and an exchange rate of not less than four and one-half times per day;

(iv) Be constructed so that water exiting the pool comes from the surface of the pool so that floating debris and oil are removed.

(b) Space requirements:

(i) For alcids, a minimum of 7.5 square feet of water-surface space should be provided for each bird (e.g., a twelve-foot diameter oiled bird rehabilitation pool may not house more than fifteen alcids);

(ii) For nonalcids, pools must meet the species-specific husbandry requirements as documented in the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation;

(iii) Oiled bird rehabilitation pools must be located within the area of the oiled bird rehabilitation facility and constructed at least four feet away from other structures.

(12) Oiled-wildlife facility requirements - Semi-static areas.

(a) Semi-static areas are spaces within an oiled bird rehabilitation facility where the required size of the space will vary relative to the number of birds present in the facility. Semi-static areas must be areas with impermeable floors and water must not be allowed to accumulate on the floor.

(b) Space requirements:

(i) When the total number of birds in a facility is less than fifty, there are no minimum space requirements for semi-static areas;

(ii) When the total number of birds in a facility is between fifty and one thousand, each semi-static area listed below must be allocated the indicated space:

(A) Morgue/necropsy: Two hundred fifty square feet.

(B) Animal food preparation: Three hundred square feet.

(C) Dry storage: One hundred square feet. May be accomplished off-site.

(D) Animal food freezer: One hundred square feet. May be accomplished off-site.

(iii) When the total number of birds in a facility is between one thousand one and two thousand, each semi-static area listed above must be allocated two times the associated space;

(iv) When the total number of birds in a facility is between two thousand one and three thousand, each semi-static area listed above must be allocated three times the associated space, etc.; and

(v) Space for the semi-static area listed above must be accommodated as a part of an oiled bird rehabilitation facility.

(13) Oiled-wildlife facility requirements - Static areas.

(a) Static areas are dedicated spaces within an oiled bird rehabilitation facility where the required size of the space does not vary, regardless of the number of animals in the facility. Static areas must be indoor areas with impermeable floors and water must not be allowed to accumulate on the floor.

(b) Space requirements:

(i) When the total number of birds in a facility is less than fifty, there are no minimum space requirements for static areas.

(ii) When the number of birds in a facility exceeds fifty, each static area listed below must be allocated the associated space.

(iii) All of the space associated with the areas listed below must be accommodated as a part of an oiled bird rehabilitation facility.

(c) Static area space requirements by activity type:

(i) Isolation/intensive care unit: Two hundred square feet;

(ii) Medical lab: Two hundred square feet;

(iii) Laundry: Two hundred square feet; may be accommodated off-site.

(14) Off-site facilities and care.

(a) A primary permittee is responsible for ensuring that his or her off-site facilities, or those of his or her subpermittee, meet all species- and treatment-stage-specific facility requirements as provided by department rule.

(b) A primary permittee, or subpermittee authorized to care for wildlife off-site from the wildlife rehabilitation facilities, must have adequate facilities to house the species in his or her care, based on the criteria for wildlife rehabilitation facilities outlined in the ((NWRA/IWRCE)) most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(c) It is unlawful for a subpermittee to care for wildlife in his or her off-site facility, or for the primary permittee to transfer wildlife to the subpermittee, unless the following requirements are met:

(i) ((The primary facility is over crowded or)) There is a need for twenty-four-hour or after-hours care, such as nestling care or nursing small mammals, or critical care;

(ii) The off-site subpermittee only houses and cares for the following species off-site: ((Common small mammals (except bats), ducks and geese (except swans), pheasant, grouse, quail, pigeon and dove, woodpeckers (except pileated woodpecker), and songbirds and perching birds;

(iii)) Eastern gray squirrels, Douglas squirrels, opossum, mallard ducks, pheasant, quail, rock dove, American robin, black-capped chickadee, chestnut-backed chickadee, song-sparrow, dark-eyed junco, white-crowned sparrow, house finch, house sparrow, and hummingbirds if the primary permittee is permitted for those species;

(iii) The number of wildlife animals held at the off-site facility does not exceed the total capacity of the primary facility so that the primary facility does not use the off-site subpermittees to increase capacity;

(iv) The primary permittee would not exceed their permitted capacity if animals were returned from the off-site subpermittee;

(v) The wildlife receives an initial intake exam at the primary permittee's facility before ((wildlife)) it is transferred to the subpermittee for off-site care;

((i+)) (vi) The wildlife exhibits no signs of a reportable disease;

((i+)) (vii) The subpermittee follows a treatment plan developed by the veterinarian or directions from the primary permittee ((if a treatment plan is prescribed for any non-reportable condition;

(vi) The subpermittee returns the animal to the wildlife rehabilitation facility under which the subpermittee is permitted as soon as the facility is able to care for the animal, such as space becoming available; and

((i+)):

(viii) The subpermittee possesses a copy of the wildlife rehabilitation permit at all times while in possession of wildlife, including while transporting wildlife for the wildlife rehabilitation facility. It is unlawful for an off-site subpermittee to release wildlife from their facility without a release evaluation by the primary permittee.

(d) It is unlawful for a subpermittee to house, possess, care for, or treat large carnivores at his or her off-site facilities.

(e) It is unlawful for a subpermittee to house, possess, care for, or treat state ((and)) or federally designated threatened ((or)), endangered, or sensitive species at his or her off-site facilities.

((4)) (f) Off-site subpermittees may not operate their own facilities.

(15) Inspections.

(a) ((Wildlife rehabilitation facilities, records, equipment, and animals may be inspected without advance notice at reasonable times and in a reasonable manner by authorized state or federal personnel. This includes off-site wildlife rehabilitation facilities, records, equipment, and animals.

((b) Inspecting authorities may not enter the facilities or disturb wildlife unless the primary permittee, a subpermittee, or a designated staff member or volunteer is present.

((c)) Fish and wildlife officers or other agents of the department may inspect without warrant or advanced notice at reasonable times and in a reasonable manner all wildlife rehabilitation facilities and premises, cages, enclosures, all records required by the department for wildlife rehabilitation, and all equipment, and animals.

(b) If wildlife rehabilitation facilities are on property owned by a person other than the ((primary)) permittee ((or a subpermittee)), the permittee must submit a signed, dated statement in which the property owner~~((divides))~~

((i+)) gives written permission to the permittee to engage in wildlife rehabilitation on the property((; and

((ii) Agrees that the wildlife rehabilitation facilities may be inspected by the department at reasonable times and in a reasonable manner)).

((5)) (16) A violation of this section by a ((primary)) permittee or a subpermittee is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-110 Wildlife rehabilitation—Releasing wildlife. (1) ((A primary permittee must release)) Rehabilitated wildlife ((according to subsection (3) of this section)) must be released as soon as the animal is deemed physically, behaviorally, and psychologically ((capable of surviving in)) fit and conforming to the species natural history to increase successful reintegration into the wild.

(2) It is unlawful to hold wildlife for rehabilitation longer than one hundred eighty days. A primary permittee must obtain department authorization if ((he or she wishes to retain wildlife)) the animal requires care longer than the one hundred eighty-day time limit ((normally allowed for wildlife rehabilitation)). The department ((will grant an extension of time if the permittee needs to find suitable placement for the wildlife, or the wildlife)) may grant a time extension if wildlife is over-wintering, molting, ((or)) completing recovery, or waiting for suitable placement.

(3) ((A primary permittee must release)) Wildlife must be released at locations using methods and protocol to mini-

imize stress on released animal; disease free; and into the same area from which the wildlife was taken((--If)) unless doing this poses a substantial risk to the health or safety of the released wildlife or humans((, the permittee may release the wildlife)); or at a location within ((its normal individual)) the wildlife's normal species range and appropriate habitat((. The primary permittee must obtain department approval prior to releasing wildlife at a location other than where it was taken or outside its normal individual range)) if location of origin is unknown or release cannot or should not occur at origin location.

The department may direct the permittee to release wildlife at a location other than where the wildlife was taken.

(4) A group of unrelated wildlife ((that are)) of the same species and that were raised together for socialization ((purposes)) may be released at the same location even if that location is not where the wildlife was originally taken. All other release requirements must be followed. Migratory birds including raptors may be released at a location other than where they originated, without department preapproval, but within their natural range and must be at a location and timing appropriate for migration or flock behavior.

(5) ((If a primary permittee does not know where wildlife was originally taken, he or she must release the wildlife into appropriate habitat and at a location where substantial risk to the health or safety of the wildlife and humans is minimal. Primary permittees must obtain department authorization for the release location prior to releasing cervids, large carnivores, or coyotes.)) **Release restriction and requirements.**

(a) Wildlife may not be given to the public to release after rehabilitation.

(b) Permittees must obtain department authorization for the release location prior to releasing cervids, large carnivores, coyotes, or beaver; cervids may not be released out of their WDFW region of origin.

(c) Orphaned cervids received by a wildlife rehabilitator and born during the year received must be released no later than October 31 of the year received. If an extension is needed to complete rehabilitation, a request must be made to the department for an extension authorization.

(d) Eastern gray squirrels, Virginia opossum, eastern cottontail, European starlings, and house sparrows must be released where these species already abundantly occur, releasing these species outside of where these species already occur is prohibited.

(e) Amphibians and reptiles must be released at point of origin, without exception. It is unlawful to release amphibians and reptiles if:

(i) They are a Washington state nonnative species.

(ii) They have been in captivity as pets.

(iii) They have been exposed to items or animals from the pet trade or pet stores including live food items or plants prior to being admitted to the permitted rehabilitation facility.

(iv) The point of origin is unknown.

(6) The primary permittee must notify and receive authorization from the department ((at least seventy two hours prior to)) before releasing oiled wildlife, or state or federally designated threatened, endangered, or sensitive species.

(7) Hacking of orphaned raptors is permitted at or through a permitted facility where ((appropriate)) department-inspected and approved hacking facilities are available.

(8) A violation of this section is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-120 Wildlife rehabilitation—Veterinary care. (1) Veterinarians may euthanize wildlife or provide ((initial care for wildlife)) stabilization without a wildlife rehabilitation permit. ((However,)) Veterinarians must arrange to transfer the wildlife to a primary permittee ((after stabilizing the wildlife, preferably)) within forty-eight hours of receiving wildlife. Veterinarians must separate wildlife from domestic animals.

Principal veterinarian. Provides timely advice and services, veterinary treatment, and any medical protocols to primary permittee; and

If the principal veterinarian detects, suspects, or confirms a reportable illness or disease, it must be reported to the primary permittee and the department's wildlife veterinarian within twenty-four hours.

(2) A violation of this section is punishable under the statute for the species being rehabilitated, including RCW 77.15.120 for endangered fish or wildlife; RCW 77.15.130 for protected fish or wildlife; RCW 77.15.400 for wild birds; RCW 77.15.410 for big game; and RCW 77.15.430 for wild animals not classified as big game.

(3) A wildlife rehabilitation permit is not a veterinary license.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-130 Wildlife rehabilitation—Records retention and reporting requirements. (1) This section contains records retention and reporting requirements for primary permittees on wildlife rehabilitation permits. Other state and federal laws and regulations may require additional records retention and reporting. ((It is the primary permittee's responsibility to comply with all state and federal laws and regulations, and to ensure that his or her subpermittees do the same.)) Required records include daily ledger, patient records, written verification of volunteer training, and veterinary summaries.

(2) Retaining records.

(a) The primary permittee must keep all ((required permits and)) records at the wildlife rehabilitation facility and retain those ((permits and)) records for a period of five years. Written or electronic records retention is acceptable.

(b) The primary permittee must make ((the permits and)) records available ((for)) to the department at inspection ((by)) or to department personnel upon request.

(3) ((Daily ledger.

(a) The primary permittee must record the following information in his or her daily ledger: All wildlife acquisitions; transfers; admissions; releases; deaths; reasons for

admission; nature of illness or injury; dates of release, transfer, or any other disposition; and any tag or band numbers.

(b) The primary permittee must make the daily ledger available for inspection by department personnel upon request.

((4))) Annual report. ((a))) The primary permittee must ((fill out the)) submit a completed annual report on the form provided by the department ((and submit the annual report)) along with the daily ledger to the department no later than January 31((st)) of each year.

((b)) Along with the annual report form, the primary permittee must submit a copy of his or her daily ledger containing records for the year.

((5))) (4) Reporting requirements for oiled, threatened, endangered, or sensitive wildlife.

(a) The primary permittee must notify the department's wildlife rehabilitation manager within twenty-four hours of receiving oiled wildlife or wildlife designated as a threatened or endangered species under state or federal laws or rules.

(b) The primary permittee must notify the department's wildlife rehabilitation manager within seventy-two hours of receiving a state designated sensitive species.

(c) The primary permittee must notify the department's wildlife rehabilitation manager within twenty-four hours if a state or federally designated threatened or endangered species in his or her possession dies. The primary permittee must receive prior department approval before disposing of deceased state or federally designated threatened or endangered species.

((6))) (5) The primary permittee must notify the department's wildlife rehabilitation manager within seventy-two hours if he or she admits any wildlife that has a state or federal band, research marker, tag, or transmitter attached to it. The primary permittee must include band numbers and any other relevant information in the report. Primary permittees must send these reports, in writing (email is sufficient), to the department's wildlife rehabilitation manager ((at P.O. Box 43200, Olympia, WA 98504 3200, or at rehabcoord@dfw.wa.gov)).

((7))) (6) The primary permittee must report ((the following diseases, confirmed by a veterinarian,)) any veterinarian-diagnosed and confirmed reportable wildlife diseases listed by the department to the department's wildlife veterinarian within twenty-four hours of diagnosis((: West Nile virus, white nose syndrome, avian cholera, avian pox, duck viral enteritis, psittacosis, rabies, environmental toxins, canine distemper, tuberculosis, Newcastle disease, salmonellosis, hair loss syndrome, deer adenovirus, plague, leptospirosis, and tularemia)).

((8))) (7) If wildlife is stolen or missing from ((a primary permittee or subpermittee)) the facility, the primary permittee must report the stolen or missing wildlife to the department ((and to the U.S. Fish and Wildlife Service Regional Law Enforcement office)) wildlife rehabilitation manager and law enforcement within twenty-four hours of discovering the ((theft of the)) missing wildlife.

((9))) (8) A violation of this section is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-140 Wildlife rehabilitation—Falconers assisting with raptor rehabilitation. (1) ((A general or master falconer may assist a primary permittee in rehabilitating raptors to prepare the birds for release into the wild so long as the primary permittee and falconer comply with all applicable federal rules. Only master class falconers or those falconers with U.S. Fish and Wildlife Service (USFWS) written authorization may assist in rehabilitating bald or golden eagles. Raptors held by falconers for rehabilitation remain under the primary permittee's permit.)) A wildlife rehabilitator may utilize a department permitted three-year general or master falconer only for prerelease conditioning for release. Falconers may not practice wildlife rehabilitation without a wildlife rehabilitation permit. Falconers may not rehabilitate hatchling and nestling raptors.

(2) If the raptor is assigned to a falconer, the primary permittee must provide the falconer with:

(a) A copy of the ((USFWS)) U.S. Fish and Wildlife Service wildlife rehabilitation permit showing the falconer listed as a subpermittee; or

(b) A copy of the primary permittee's wildlife rehabilitation permit and a copy of the department authorization for transfer; and

(c) A written document identifying the raptor and explaining that the falconer is assisting in the raptor's rehabilitation and acting as an authorized subpermittee of the primary permittee. The written document must:

(i) Provide the dates of possession and the falconer's name, state falconry license number, contact information, and location of the falconer's facility; and

(ii) Accompany the raptor at all times, including during transport and at the housing location of the raptor.

(3) The primary permittee is responsible for ensuring that falconers adhere to permit terms, state law, department rules, and federal law and regulations at all times when assisting in rehabilitation activities under the primary permittee's rehabilitation permit.

(4) A falconer may house ((and treat)) a raptor undergoing ((rehabilitation)) conditioning for release at an approved falconry facility that does not meet wildlife rehabilitation facility standards so long as the falconry facility meets the standards under department rule for housing raptors.

(5) Any raptor that cannot be permanently released into the wild must be returned to the primary permittee ((or transferred to the department)) within one hundred eighty days from the date of transfer to the falconer, unless:

((a))) The department authorizes retaining the raptor for longer than one hundred eighty days((; or

((b))) The primary permittee or department transfers the raptor to a permitted educational)) to complete conditioning or is awaiting placement to a permitted education facility.

(6) A primary permittee may transfer a releasable raptor directly to a falconer for falconry purposes so long as the falconer can lawfully possess the species of raptor and complies with all applicable state and federal laws and regulations. The primary permittee must notify the department of the transfer of the raptor to a falconer within ten days of the transfer. The USFWS may also require notification of raptor transfers and

release. It is the primary permittee's and falconer's responsibility to ensure compliance with all state and federal laws and regulations.

(7) A falconer may not transfer a bird under his or her care for rehabilitation conditioning to his or her falconry permit; a raptor in rehabilitation conditioning must remain on the wildlife rehabilitator's permit at all times.

(8)(a) A violation of this section by a primary permittee is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

(b) A violation of this section by a falconer assisting a primary permittee is punishable under the statute for the species being rehabilitated, including RCW 77.15.120 for endangered birds; RCW 77.15.130 for protected birds; and RCW 77.15.400 for all other wild birds.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-150 Wildlife rehabilitation—Transfer, import, and export of wildlife and restrictions. (1) A primary permittee may import wildlife into Washington state for wildlife rehabilitation purposes if it is legal to import that species and the primary permittee possesses a ((health)) certificate of veterinary inspection from an accredited veterinarian licensed in the state of origin and an entry permit as required by the Washington state department of agriculture for the animal.

(2) It is unlawful to transfer Washington state mammals to an out-of-state rehabilitator without obtaining prior department approval.

(3) It is unlawful to import species in the order Cervidae((, and)) or rabies vector species((;)) into Washington state for rehabilitation purposes.

(a) Cervids are Roosevelt and Rocky Mountain elk, mule deer, black-tailed deer, white-tailed deer, moose, and caribou.

(b) Rabies vector species are bat, skunk, fox, raccoon, and coyote.

(c) Wildlife rehabilitation permits may be conditioned by the department with additional restrictions on wildlife transfer related to a specific endorsement or current interpretations of species-specific disease transfer.

(4) Transferring wildlife for socialization.

(a) Transferring wildlife undergoing rehabilitation between Washington wildlife rehabilitators for the purpose of orphan imprinting, ((appropriate companionship)) conspecific socialization, appropriate species behavior maintenance, ((flight conditioning and specialized)) prerelease condition, and/or species-specific and veterinary medical care is permissible ((and encouraged)).

(b) No transfer of cervids, beaver, or bats between eastern Washington (all lands lying east of the Cascade Crest Trail and east of the Big White Salmon River in Klickitat County) and western Washington (all lands lying west of the Cascade Crest Trail and west of and including the Big White Salmon River in Klickitat County).

(c) No transfer of cervids between Washington department of fish and wildlife regions unless written permission

and conditions for the transfer are obtained from the department prior to the transfer.

(d) No intake/admission of cervids from outside of the Washington department of fish and wildlife region in which the facility is located. If any cervid is brought to a wildlife rehabilitation facility from outside that facility's Washington department of fish and wildlife region, the animal must be euthanized.

(e) Wildlife possessed for rehabilitation may be transferred between Washington wildlife rehabilitators without prior department approval if the receiving wildlife rehabilitator is permitted to possess those species and geographic restrictions are followed.

(5) A violation of this section is punishable under RCW 77.15.290, Unlawful transportation of fish or wildlife—Penalty.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-160 Wildlife rehabilitation—Possession of dead wildlife and wildlife parts. (1) A primary permittee may receive and possess dead wildlife from the department for the purpose of feeding wildlife in rehabilitation.

(2) Feather possession.

(a) A primary permittee may possess bird feathers for imping ((as long as he or she possesses a valid wildlife rehabilitation permit)).

(b) Primary permittees may receive or exchange feathers of birds from and with other wildlife rehabilitators if the rehabilitators possess and comply with ((necessary)) relevant U.S. Fish and Wildlife Service Migratory Bird Treaty Act permits.

((b)) (c) A primary permittee may donate feathers from rehabilitation birds to any person or institution with a valid permit to possess feathers, except feathers from golden eagle or bald eagle.

((e)) (d) A primary permittee may leave feathers that are molted or otherwise lost by a bird in wildlife rehabilitation where they fall, store the feathers, or destroy the feathers, except that the rehabilitator must gather primary or secondary flight feathers or ((retirees)) rectrices from golden eagle and bald eagle and send these feathers or ((retirees, if not kept for imping,)) rectrices to the National Eagle Repository.

((d)) (3) A primary permittee whose permit is expired((, suspended,)) or revoked must donate any ((feathers from wildlife that was in his or her care)) wildlife carcasses and parts to a person or institution with a valid permit to possess the ((feathers)) wildlife carcasses and parts, or the primary permittee must burn, bury, or otherwise destroy ((the feathers)) the carcasses or parts.

((3)) (4) A violation of this section is punishable under the statute for the species being unlawfully retained, including RCW 77.15.120 for endangered fish or wildlife; RCW 77.15.130 for protected fish or wildlife; RCW 77.15.400 for wild birds; RCW 77.15.410 for big game; or RCW 77.15.430 for wild animals not classified as big game.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-170 Wildlife rehabilitation—Disposition of nonreleasable and over-habituated, mal-imprinted, ((and)) or tamed wildlife and live retention for foster and education. (1) A primary permittee may retain live, nonreleasable wildlife for the purposes of:

(a) Orphan imprinting, socialization, and appropriate wild behavior retention and development, if the permittee possesses valid U.S. Fish and Wildlife Service (USFWS) permits and written authorization from the department. The department determines whether wildlife may be retained for these purposes on a case-by-case basis.

(b) Static display and program education, if the permittee possesses valid USFWS permits and written authorization from the department.

((i))) (c) To obtain authorization for education or fostering, the permittee must submit a completed Education or Foster Animal - Live Wildlife Retention Form application form provided by the department.

(d) A fee for presentation of an education program may be charged to recoup the permittee's cost.

(e) Education programs must provide information about the biology, ecological roles, or needs of wildlife; wildlife may not be presented as if they are pets.

(f) Wildlife tamed ((by, imprinted on, or habituated)), overly habituated and lacking fear of humans and domestic animals, or mal-imprinted to humans before admission to the primary permittee's facility can be retained for static display or education programs if the department authorizes this in writing. The department will make such determinations on a case-by-case basis.

((ii))) (g) Permittees must house wildlife used for educational purposes separately and out of sight of wildlife in rehabilitation.

((iii)) (h) Mammals retained for education purposes may not be used for orphan imprinting or companionship for wildlife in rehabilitation.

(i) It is permissible to use birds retained for education, including raptors, for orphaned imprinting, nestling care, or companionship if federally permitted.

(j) The permittee may not have the following animals for education programs or static display: Cervids, large carnivores, amphibians.

(k) The permittee may not use the following animals in education programs: All rodents (except eastern gray squirrels), moles and shrews, weasels, skunks, raccoons, coyotes, foxes, beavers, muskrats, pikas, hares, rabbits, Apodidae, Trochilidae, Picidae, Passerines (except American crow, Northwestern crow, and common ravens), loons, grebes, seabirds, herons, bitterns, storks, and ibis.

(l) Wildlife tamed ((by, imprinted on, or habituated)) or mal-imprinted to humans while at the primary permittee's ((facility or subpermittee's)) facility and determined to be nonreleasable must be transferred or humanely euthanized ((no later than one hundred eighty days following admission to the rehabilitation facility,)) to protect the public and to protect the animal from human abuse.

(m) A violation of this section is punishable under RCW 77.15.750, Unlawful use of a department permit—Penalty.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-180 Wildlife rehabilitation—Euthanizing ((protected, threatened, or endangered wildlife and migratory birds)) wildlife. Euthanasia must be provided in accordance with an animal's welfare, using humane techniques and at a reasonable time after admission to prevent unnecessary suffering of the animal. Permittees must follow the most current American Veterinary Medical Association Guidelines on Euthanasia.

(1) Bald eagles, golden eagles, ((peregrine falcons and other state or federally)) and state endangered or threatened wildlife may be euthanized, without prior department approval, if the animal is suffering and untreatable or has a terminal illness or injury. In all other cases, prior department approval must be obtained before euthanizing ((bald eagles, golden eagles, peregrine falcons, and other state or federally)) state endangered or threatened wildlife.

(2) Any bird that has sustained injuries requiring amputation of a ((leg,)) foot, a portion of a leg or wing at the elbow (humero-ulnar joint) or above, or ((a bird that is completely)) any animal that is permanently blind must be euthanized.

(3) If ((a migratory bird)) an animal cannot, after medical management, feed itself, ((perch upright,)) or ambulate without inflicting additional injury to itself, the ((bird)) animal must be euthanized.

(4) The primary permittee must comply with all applicable federal Migratory Bird Treaty Act rules when taking action for migratory birds under this section.

(5) The primary permittee shall report immediately to the department any department-surveilled wildlife disease or suspected emerging disease. If the director determines that such disease or outbreak presents a threat to wildlife of the state, the director may immediately order destruction of the wildlife.

(6) A violation of this section is punishable under RCW 77.15.120 for endangered birds; RCW 77.15.130 for protected birds; or RCW 77.15.400 for all other wild birds, depending on the bird species.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-190 Wildlife rehabilitation—Disposition of wildlife remains. (1) Wildlife carcasses (except for those that are oiled) must be ((burned)) incinerated, buried, or otherwise destroyed, according to local laws and regulations((, within ten days of the animal's death or after final necropsy by a veterinarian. However,)) to avoid the risk of poisoning wildlife, a primary permittee must not allow chemically euthanized wildlife to be scavenged.

(a) Wildlife carcasses may be donated to any person or institution authorized under state or federal law to acquire and possess specific wildlife carcasses or parts.

(b) A primary permittee on a wildlife rehabilitation permit may keep the carcass of any bird, except golden eagle or bald eagle, so the feathers on the carcass are available for imping and education as long as they are in compliance with federal rules.

(c) A primary permittee must send ((the entire carcass)) any and all remains of a golden eagle or bald eagle, including all talons, feathers ((unless feathers are kept for imping purposes)) and other parts, to the National Eagle Repository ((within thirty days of the bird's death)) following instructions from the U.S. Fish and Wildlife Service.

(d) A primary permittee may retain wildlife carcasses and skins((, instead of disposing of the carcasses or skins, to have the carcass mounted or the skin prepared by a taxidermist)) for mounting or skin preparation for the purpose of public display and education programs. If prepared by a licensed taxidermist, the primary permittee must supply the taxidermist with written documentation that the carcass or skin is possessed pursuant to a wildlife rehabilitation permit. The taxidermist must possess the written documentation at all times while the carcass or skin is in the taxidermist's possession. The primary permittee must keep the mount at the wildlife rehabilitation facility and may use it for public display for education programs. If the wildlife carcass is a banded bird or has an implanted microchip, the band number or microchip number must ((stay in place)) be reported to the issuing agency, entity, or person.

(e) A primary permittee who retains a wildlife carcass or parts may only possess the carcass or parts so long as the primary permittee possesses a valid wildlife rehabilitation permit and complies with all applicable federal laws. If the permittee no longer has a valid wildlife rehabilitation permit, the person must have a different authorizing state or federal permit to keep the carcasses or parts, or surrender the carcasses or parts to the department.

(2) ((A primary permittee must take appropriate precautions to avoid the risk of poisoning scavenging wildlife when disposing of carcasses of euthanized wildlife. Wildlife euthanized by chemical injection may not be buried or taken to a landfill.))

((3))) Animals that have died of or have been euthanized due to reportable diseases must be disposed of as directed by Washington department of fish and wildlife (WDFW) wildlife veterinarian. No carcasses or parts should be retained.

(3) A primary permittee must not dispose of dead oiled wildlife without obtaining department approval.

(4) A violation of this section by a permittee or subpermittee on a wildlife rehabilitation permit is punishable under RCW 77.15.750, Unlawful use of a department permit—Penalty.

((4))) (5) A violation of this section by a person who lacks a valid wildlife rehabilitation permit is punishable under RCW 77.15.120 for endangered birds; RCW 77.15.130 for protected birds; or RCW 77.15.400 for all other wild birds, depending on the bird species.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-450-200 Wildlife rehabilitation—((Prohibition on)) Commercial uses. (1) It is unlawful to sell, offer for sale, purchase, or use for commercial purposes wildlife or parts of wildlife under any circumstances under a wildlife rehabilitation permit.

(2) ((As long as a primary permittee or rehabilitation facility is not paid and does not collect a fee or receive compensation)) Consistent with all existing wildlife rehabilitation rules, and the rest of this section, the primary permittee ((may use photographs, films, live video, or other sources of information to:

(a) Provide education on the practice of wildlife rehabilitation or the biology, ecological roles, and conservation needs of wildlife;

(b) Raise funds to support the wildlife rehabilitation facility or wildlife rehabilitation activities, so long as the primary permittee complies with the following criteria:

(i) He or she may not require payment or sell items, but may request a "suggested donation." Money exchanged for any item must be by donation only. A primary permittee may not refuse to give an item to a person if the person refuses to donate money or donates less money than the suggested donation;

((ii) All funds received through fund-raising efforts)) or entity operating a wildlife rehabilitation facility may collect funds to support the wildlife rehabilitation facility or wildlife rehabilitation facility activities.

(3) The primary permittee or the entity operating the wildlife rehabilitation facility may request donations or collect funds, however, except for oiled-wildlife rescue and rehabilitation authorized under the Federal Oil Pollution Act, all funds received for wildlife rehabilitation must go to the entity operating the wildlife rehabilitation facility or supporting wildlife rehabilitation activities((; and

((iii))). The primary permittee may not ((keep money)) retain funds received through fund-raising efforts for personal use.

((3))) (4) It is unlawful to require a donation or charge a fee when receiving or admitting wildlife for rehabilitation unless it is authorized under the Federal Oil Pollution Act.

(5) A violation of this section is punishable under RCW 77.15.260 or 77.15.750, or both.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-450-210 Oiled bird rehabilitation—Facility requirements.

WAC 220-450-220 Reporting receipt, death, carcass retention, and release of oiled birds.

WSR 19-06-053 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Developmental Disabilities Administration) [Filed March 4, 2019, 3:16 p.m., effective April 4, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department amended WAC 388-828-9310 to replace "community access" with the service's new name,

"community inclusion," which was approved through a waiver amendment by the Centers for Medicare and Medicaid Services (CMS). Amendments to WAC 388-828-9330 and 388-828-9335 replace "in training/job development" with "working at subminimum wage or in job development" as requested by Disability Rights Washington. Amendments to WAC 388-828-9350 remove provider travel time as a reason to authorize additional employment support hours for a client; this change aligns with CMS-approved waiver amendments, which do not include provider travel time in the service definition or service limitations as justification for additional employment support hours. Amendments to WAC 388-845-2100 add language requested by the Seattle Commission for People with Disabilities.

Citation of Rules Affected by this Order: Amending WAC 388-828-9310, 388-828-9330, 388-828-9335, 388-828-9350, and 388-845-2100.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.040, 71A.12.120, 34.05.-330.

Adopted under notice filed as WSR 19-01-063 on December 14, 2018.

Changes Other than Editing from Proposed to Adopted Version: Instead of striking WAC 388-828-9350(6) as proposed, the developmental disabilities administration (DDA) revised the language as follows:

DDA may authorize additional hours to your monthly employment service hours when your employment support plan identifies a need for additional service hours related to:

- (1) Your work schedule;
- (2) The number of jobs you have;
- (3) The appropriateness of your job match;
- (4) Natural supports available to you on the job;
- (5) Health limitations that affect your job;
- (6) ((Provider travel time and distance to)) The location of your job;

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 3, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: March 1, 2019.

Cheryl Strange
Secretary

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-828-9310 How does DDA determine the number of community ((a~~ee~~ss)) inclusion services hours you may receive each month? (1) The number of hours of community ((a~~ee~~ss)) inclusion services you may receive each month is based on your community ((a~~ee~~ss)) inclusion service level.

(2) The developmental disabilities administration (DDA) determines your community ((a~~ee~~ss)) inclusion service level based on your support intensity scale (SIS) support needs index percentile ranking. DDA determines your SIS support needs index percentile ranking under WAC 388-828-4440 and as detailed in the following table:

SIS support needs index percentile	Community ((a ee ss)) <u>inclusion</u> service level	Maximum service hours per month
0 - 9th percentile	A	Up to 3 hours
10th - 19th percentile	B	Up to 6 hours
20th - 29th percentile	C	Up to 9 hours
30th - 44th percentile	D	Up to 12 hours
45th - 59th percentile	E	Up to 15 hours
60th - 74th percentile	F	Up to 18 hours
75th - 100th percentile	G	Up to 20 hours

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-828-9330 How does DDA determine your employment status? (1) The developmental disabilities administration (DDA) considers your employment status "working" if:

- (a) In the twelve months before your assessment:
- (i) You have been employed for nine consecutive months; and
- (ii) You have earned at least Washington state's minimum wage; or
- (b) You are currently self-employed and:
- (i) The activities of your employment meet the Internal Revenue Service (IRS) rules for a business;
- (ii) You have a business plan demonstrating feasibility as determined by the division of vocational rehabilitation or an impartial, agreed upon, third-party business expert; and
- (iii) You are licensed, if required, and follow all local, state, and federal regulations and rules.

(2) DDA considers your employment status ("in training/job development") "working at sub-minimum wage or in job development" if you do not meet the conditions in sub-section (1) of this section.

AMENDATORY SECTION (Amending WSR 13-01-076, filed 12/18/12, effective 1/18/13)

WAC 388-828-9335 How does ((DDA)) DDA determine your employment service level? ((DDA)) DDA deter-

mines your employment service level using the following table:

If your employment support level in WAC 388-828-9205 is:	And your employment status in WAC 388-828-9330 is:	Then your employment service level is:	And your employment service hours per month are:
None	Working	A	0
	((In Training/ Job Development)) <u>Working at sub-minimum wage or in job development</u>	B	0
Low	Working	C	4
	((In Training/ Job Development)) <u>Working at sub-minimum wage or in job development</u>	D	7
Medium	Working	E	7
	((In Training/ Job Development)) <u>Working at sub-minimum wage or in job development</u>	F	9
High	Working	G	11
	((In Training/ Job Development)) <u>Working at sub-minimum wage or in job development</u>	H	12

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-828-9350 Are there conditions when DDA will authorize additional hours to your monthly employment service hours? The developmental disabilities administration (DDA) may authorize additional hours to your monthly employment service hours when your employment support plan identifies a need for additional service hours related to:

- (1) Your work schedule;
- (2) The number of jobs you have;
- (3) The appropriateness of your job match;
- (4) Natural supports available to you on the job;
- (5) Health limitations that affect your job;
- (6) ((Provider travel time and distance to)) The location of your job;
- (7) Behavioral or physical needs that may affect the safety of you and others while at work; or
- (8) Other factors in your employment plan that indicate a need for additional hours for a short-term volunteer opportunity, job development, or for you to maintain a job.

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-2100 What are supported employment services? (1) Supported employment services are for those interested in integrated gainful employment and should facilitate paid employment that is covered by the Washington State Minimum Wage Act under chapter 49.46 RCW and the Fair Labor Standards Act under 29 U.S.C. Section 201. These services provide you with intensive ongoing support if you need individualized assistance to gain employment, maintain employment, or both. These services are tailored to your individual needs, interests, abilities, and promote your career development. These services are provided in individual or group settings and are available in the basic plus, core, and community protection waivers.

(2) Individual supported employment services include activities needed to sustain Washington state's minimum wage pay or higher. These services are conducted in integrated business environments and include the following:

(a) Intake: An initial meeting to gather and share basic information and a general overview of employment supports, resources in the community, and the type of available supports that the individual may receive;

(b) Discovery: A person-centered approach to learn the individual's likes and dislikes, job preferences, and employment goals and skills;

(c) Job preparation: Includes activities of work readiness resume development, work experience, volunteer support transportation training;

(d) Marketing: A method to identify and negotiate jobs, build relationships with employers, and customize employment development;

(e) Job coaching: The supports needed to keep the job; and

(f) Job retention: The supports needed to keep the job, maintain a relationship with employer, identify opportunities, and negotiate a raise in pay, promotion, or increased benefits.

(3) Group supported employment services are a step on your pathway toward gainful employment in an integrated setting and include:

(a) Supports and paid training in an integrated business setting;

(b) Supervision by a qualified employment provider during working hours;

(c) Groupings of no more than eight workers with disabilities; and

(d) Individualized supports to obtain gainful employment.

WSR 19-06-060

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed March 5, 2019, 10:14 a.m., effective April 5, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state patrol has proposed amendments to WAC 204-91A-060 Application and qualifications for letter of appointment. The purpose of the proposal

is to clarify existing language and to amend the disqualifications for applicants, partners, corporate officers, and employees.

Citation of Rules Affected by this Order: Amending WAC 204-91A-060.

Statutory Authority for Adoption: RCW 46.37.005, 46.55.050, and 46.55.115.

Adopted under notice filed as WSR 18-23-100 on November 20, 2018.

Changes Other than Editing from Proposed to Adopted Version: A number of nonsubstantive changes were made between the proposed and adopted rule versions. Many of the changes were editorial in nature, but some language was inserted, deleted or replaced to clarify the meaning of the rule and to avoid confusion for registered tow truck operators and the public. In addition to the referenced editorial changes, the following clarifying changes were made upon adoption of the rule.

WAC 204-91A-060 (5)(a)(v)(B) and (vi)(A), added "crime with a finding of" and "RCW 9.94A.030" to the description.

WAC 204-91A-060 (5)(a)(v)(M), replaced "child pornography" with "depictions of minor engaged in sexually explicit conduct."

WAC 204-91A-060 (5)(a)(v)(NN), replaced "personal watercraft in a reckless manner" with "vessel under the influence."

WAC 204-91A-060 (5)(a)(vi)(Q), added "temporary" and replaced "or preliminary injunction" with "relating to child abuse."

WAC 204-91A-060 (5)(a)(vi)(R), added "violation of" and deleted "for persons accused of sexually or physical abusing a child."

WAC 204-91A-060 (5)(a)(v)(L) and (vi)(C), added "crime with a finding of" to the description and replaced "RCW 9.94A.835 and 13.40.135" with "RCW 9.94A.030."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 4, 2019.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 14-17-104, filed 8/19/14, effective 9/19/14)

WAC 204-91A-060 Application and qualifications for letter of appointment. (1) An application must be approved and a letter of appointment issued by the patrol before an operator is authorized to provide towing services for the patrol pursuant to this chapter. However, nothing herein prohibits the patrol from calling a towing business upon the specific request of a person responsible for a vehicle or his/her agent.

(2) An application for letter of appointment must be completed by:

Type of business	Who must complete the application
Tow company	Owner/operator
Partnership	Each partner
Corporation	The patrol may require each of the present and subsequent officers, managers, and stakeholders holding 10% or more of the total issued stock to complete an application.

(3) To be issued a letter of appointment, the applicant(s) must:

(a) Complete the application form provided by the patrol; and

(b) Attach to the application a signed "letter of contractual agreement" listing the maximum tow rates to be charged for services resulting from state patrol originated calls; and

(c) Satisfy the requirements contained in WAC 204-91A-070; and

(d) Demonstrate through a letter included with the application that they have at least two years of experience within the towing industry, or be granted a waiver if the owner/operator does not have the required two years experience.

(i) The two years of experience must have been acquired within five years of the date of application. The two years of experience may be satisfied by demonstrating any of the following:

(A) He or she has been a registered tow truck operator for a minimum of two years prior to the date of application with at least one approved "A" or "B" class tow truck, additional trucks are optional, and has a working knowledge of the paperwork requirements for impounds; or

(B) He or she has worked as an employee of a tow company on the state patrol's rotational tow list and gained experience within the towing industry including, but not limited to, the operation of vehicles, complying with the state and federal standards and regulations, and processing of paperwork for auditing and other purposes; or

(C) He or she will keep in place the existing management team/employees for a minimum of one year upon purchasing the business.

(ii) If the owner/operator does not have the required two years experience, the owner/operator may be granted a waiver of this requirement. If the owner/operator is granted a waiver, the letter of appointment may be granted on a proba-

tionary basis for a period of one year from the date of the waiver.

(4) Upon receipt by the patrol of a completed application:

(a) The district office must:

(i) Complete the tow zone portion of the application form. The district commander or designee will enter "approved" or "disapproved" next to the zone designation and sign the application form; and

(ii) Forward the application form to the section.

(b) The section will review the application form to ensure the applicant(s) meet all the requirements as outlined under subsections (5) through (9) of this section. If the application is denied, a letter will be sent to the applicant(s) from the section articulating the reasons for the denial. If the application is approved it will be assigned a docket number which will be its permanent identification number for all matters relating to the application and letter of appointment.

(5) The patrol will refuse to issue or may revoke a letter of appointment or contract if the applicant, partner, corporate officer involved in daily operations, or any employee who operates a tow truck, assists in vehicle auctions, or is involved in daily operations:

(a) Has been convicted of any of the following:

(i) Any class A felony or any "sex offense" as defined in RCW 9.94A.030, regardless of the date of conviction; or

(ii) Any class B felony within the last ten years; or

(iii) Any class C felony within the last five years; or

(iv) A DUI, as defined in chapter 46.61 RCW, two or more times within the last five years; or

(v) Any gross misdemeanor listed in this subsection within the last three years:

(A) Any attempt, conspiracy or solicitation to commit a class C felony as defined in RCW 9A.28.020, 9A.28.030, and 9A.28.040;

(B) Any crime with a finding of domestic violence as defined in RCW 9.94A.030 and 10.99.020;

(C) Assault in the fourth degree as defined in RCW 9A.36.041;

(D) Reckless endangerment as defined in RCW 9A.36.050;

(E) Coercion as defined in RCW 9A.36.070;

(F) Interfering with reporting of domestic violence as defined in RCW 9A.36.150;

(G) Aiming or discharging firearm, dangerous weapon as defined in RCW 9.41.230;

(H) Dangerous weapon as defined in RCW 9.41.250;

(I) Unlawful carrying or handling weapon apparently capable of producing bodily harm as defined in RCW 9.41.270;

(J) Possessing dangerous weapon on school facilities as defined in RCW 9.41.280;

(K) Failure to register as felony firearm offender as defined in RCW 9.41.335;

(L) Any crime with a finding of sexual motivation as defined in RCW 9.94A.030;

(M) Failure to report depictions of minor engaged in sexually explicit conduct as defined in RCW 9.68A.080;

(N) Communication with minor for immoral purposes as defined in RCW 9.68A.090;

(O) Permitting commercial sexual abuse of a minor as defined in RCW 9.68A.103;

(P) Sexual misconduct with a minor in the second degree as defined in RCW 9A.44.096;

(Q) Voyeurism as defined in RCW 9A.44.115;

(R) Failure to register as sex offender or kidnapping offender as defined in RCW 9A.44.132;

(S) Custodial sexual misconduct in the second degree as defined in RCW 9A.44.170;

(T) Indecent exposure as defined in RCW 9A.88.010;

(U) Vehicle prowling in the second degree as defined in RCW 9A.52.100;

(V) Making or having burglar tools as defined in RCW 9A.52.060;

(W) Criminal trespass in the first degree as defined in RCW 9A.52.070;

(X) Theft in the third degree as defined in RCW 9A.56.050;

(Y) Making or possessing motor vehicle theft tools as defined in RCW 9A.56.063;

(Z) Theft of rental, leased, lease-purchased, or loaned property as defined in RCW 9A.56.096;

(AA) Possessing stolen property in the third degree as defined in RCW 9A.56.170;

(BB) Obscuring the identity of a machine as defined in RCW 9A.56.180;

(CC) Criminal impersonation in the second degree as defined in RCW 9A.60.045;

(DD) Unlawful issuance of checks or drafts as defined in RCW 9A.56.060;

(EE) Unlawful sale of food stamps as defined in RCW 9.91.140;

(FF) Trafficking in food stamps as defined in RCW 9.91.142;

(GG) Theft of motor vehicle fuel as defined in RCW 46.61.740;

(HH) Driving under the influence as defined in RCW 46.61.502;

(II) Physical control of a vehicle while under the influence as defined in RCW 46.61.504;

(JJ) Reckless driving as defined in RCW 46.61.500;

(KK) Reckless endangerment of roadway workers as defined in RCW 46.61.527;

(LL) Hit and run attended as defined in RCW 46.52.020;

(MM) Operating railroad, steamboat, vehicle while intoxicated as defined in RCW 9.91.020;

(NN) Operation of vessel under the influence as defined in RCW 79A.60.040;

(OO) Obstructing a law enforcement officer as defined in RCW 9A.76.020;

(PP) Stalking as defined in RCW 9A.46.110;

(QQ) Harassment as defined in RCW 9A.46.020;

(RR) Violation of antiharassment order as defined in RCW 9A.46.040;

(SS) Violation of order restricting contact as defined in RCW 9A.46.080;

(TT) Escape in the third degree as defined in RCW 9A.76.130;

(UU) Rendering criminal assistance in the first degree as defined in RCW 9A.76.070;

(VV) Malicious mischief in the third degree as defined in RCW 9A.48.090;
(WW) Making a false or misleading statement to a public servant as defined in RCW 9A.76.175;
(XX) False reporting as defined in RCW 9A.84.040;
(YY) False swearing as defined in RCW 9A.72.040;
(ZZ) Criminal mistreatment in the third degree as defined in RCW 9A.42.035;
(AAA) Abandonment of a dependent person in the third degree as defined in RCW 9A.42.080;
(BBB) Violation of a court order as defined in RCW 26.50.110;
(CCC) Jury tampering as defined in RCW 9A.72.140;
(DDD) Tampering with physical evidence as defined in RCW 9A.72.150;
(EEE) Animal cruelty in the second degree as defined in RCW 16.52.207;
(FFF) Reckless burning in the second degree as defined in RCW 9A.48.050;
(GGG) Any comparable out-of-state, federal or municipal crimes.
(vi) Any misdemeanor listed in this subsection within the last year or:
(A) Any crime with a finding of domestic violence as defined in RCW 9.94A.030 and 10.99.020;
(B) Alteration of identifying marks on a firearm as defined in RCW 9.41.140;
(C) Any crime with a finding of sexual motivation as defined in RCW 9.94A.030;
(D) Indecent exposure as defined in RCW 9A.88.010;
(E) Permitting prostitution as defined in RCW 9A.88.090;
(F) Patronizing a prostitute as defined in RCW 9A.88.-110;
(G) Criminal trespass in the second degree as defined in RCW 9A.52.080;
(H) Unlawful sale of food stamps as defined in RCW 9.91.140;
(I) Driver under twenty-one consuming alcohol or marijuana as defined in RCW 46.61.503;
(J) Hit and run unattended as defined in RCW 46.52.010;
(K) Negligent driving in the first degree as defined in RCW 46.61.5249;
(L) Escape in the third degree as defined in RCW 9A.76.130;
(M) Rendering criminal assistance in the second degree as defined in RCW 9A.76.080;
(N) Rendering criminal assistance in the third degree as defined in RCW 9A.76.090;
(O) Criminal mistreatment in the fourth degree as defined in RCW 9A.42.037;
(P) Leaving a child in the care of a sex offender as defined in RCW 9A.42.110;
(Q) Violation of temporary restraining order relating to child abuse as defined in RCW 26.44.063;
(R) Violation of temporary restraining order restricting visitation as defined in RCW 26.44.150;
(S) Refusing to summon aid for a peace officer as defined in RCW 9A.76.030;
(T) Resisting arrest as defined in RCW 9A.76.040;

(U) Bail jumping as defined in RCW 9A.76.170;
(V) Disorderly conduct as defined in RCW 9A.84.030;
and
(W) Any comparable out-of-state, federal or municipal crimes.
(b) Must register as a sex offender or kidnapping offender; or
(c) Has been granted a deferred prosecution under chapter 10.05 RCW for any gross misdemeanor within the last three years.
(6) The patrol may refuse to issue or may revoke a letter of appointment or contract if the applicant, partner, corporate officer involved in daily operations, or any employee who operates a tow truck, assists in vehicle auctions, or is involved in daily operations:
(a) Has been convicted of any misdemeanor within the last year; or
(b) Has been granted a deferred prosecution under chapter 10.05 RCW for any misdemeanor within the last year.
(7) The patrol may refuse to issue or may revoke a letter of appointment or contract if any applicant, partner or corporate officer involved in daily operations, or any employee who operates a tow truck or assists in vehicle auctions:
(a) Has demonstrated a willful disregard for complying with ordinances, statutes, administrative rules or court orders, whether at the local, state or federal level; or
(b) Fails to demonstrate character and general fitness sufficient to command the confidence of the patrol and warrant a belief that the business will be operated honestly, fairly and efficiently in the conduct of towing, impound, and vehicle auction activities. In determining character and general fitness, the patrol may consider:
(i) Prior contacts with law enforcement; and
(ii) Criminal record; and
(iii) Reputation in the community; and
(iv) Associations.
(8) A misrepresentation of fact found to have been made by an applicant during the application process or by a letter of appointment holder shall be deemed a lack of good faith and shall constitute good and sufficient cause for the denial of an application or the revocation or suspension of the letter of appointment.
(9) Only one application per year to tow on the patrol's rotational tow list will be accepted and considered for an applicant who has had their previous application denied or had their letter or contract of appointment revoked. The year will run from the date of application denial or the date of revocation of the letter of appointment.
(10) The term "conviction" as used in this section will have the same meaning as used in RCW 9.94A.030.
(11) Crimes referenced in this section are as defined in the criminal code as they existed at the time of the violation, as they now exist or may later be amended in the state of Washington. Out-of-state convictions for offenses will be classified according to the comparable offense definitions and sentences provided by Washington law.
(12) An individual may request to review their record using the form outlined in WAC 446-20-400. The request must be made by the person whose record is sought. When requested by the patrol, other documentation to prove identi-

fication must be provided prior to viewing the record. An individual wishing to contest the information contained in their criminal history must do so using the process established in chapter 446-20 WAC.

(13) For the purpose of this chapter, the term daily operations will mean processing:

(a) The acceptance or release of a vehicle under a letter of appointment; or

(b) Transactions for any tow requested under a letter of appointment.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 6, Repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 10, Repealed 8.

Date Adopted: December 13, 2018.

Tim Lynch, PharmD, MS, Chair
Pharmacy Quality Assurance Commission

WSR 19-06-068
PERMANENT RULES
DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed March 5, 2019, 11:36 a.m., effective April 5, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-887 WAC, Regulations implementing the Uniform Controlled Substance Act, the pharmacy quality assurance commission (commission) approved amendments to chapter 246-887 WAC to update citations to federal rules and laws adopted by the commission. Additionally, the commission approved to change the format of the schedules. The rule removes substances already established in chapter 69.50 RCW. The rules will now only include substances not scheduled in RCW. The two separate lists eliminate redundancy and the chance for misspelling of substances. Also, by having the rule formatted to only schedule substances missing from the RCW it will provide efficiency when the commission requests future updates to chapter 69.50 RCW, or if the legislature asks for assistance in updating the schedules. Other changes were approved to clarify the language in rule and make the requirements more understandable. The commission approved the repeal of WAC 246-887-110, 246-887-120, 246-887-130, 246-887-131, 246-887-132, 246-887-133, 246-887-165, and 246-887-190 to consolidate previously added substances into appropriate schedules. This rule addresses a petition received by the commission from the attorney general's office, office of consumer protection, to add substances to Schedule I, and a petition from Greenwich BioSciences to add Epidiolex to Schedule V.

Citation of Rules Affected by this Order: Repealing WAC 246-887-110, 246-887-120, 246-887-130, 246-887-131, 246-887-132, 246-887-133, 246-887-165 and 246-887-190; and amending WAC 246-887-020, 246-887-080, 246-887-090, 246-887-100, 246-887-140, 246-887-150, 246-887-160, 246-887-170, 246-887-180, and 246-887-200.

Statutory Authority for Adoption: RCW 69.50.201.

Adopted under notice filed as WSR 18-22-115 on November 6, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

AMENDATORY SECTION (Amending WSR 15-13-086, filed 6/15/15, effective 7/16/15)

WAC 246-887-020 Uniform Controlled Substances Act. (1) ~~((Consistent with the concept of uniformity where possible with the federal regulations for controlled substances (21 C.F.R.), the federal regulations are specifically made applicable to registrants in this state by virtue of RCW 69.50.306. Although those regulations are automatically applicable to registrants in this state,))~~ The pharmacy quality assurance commission (commission) ~~((is nevertheless adopting as its own regulations the existing regulations of the federal government published in))~~ adopts Title 21 of the Code of Federal Regulations ~~((revised as of April 1, 1991, and all references made therein to the director or the secretary shall have reference to the commission, and))~~. The following sections ~~((are not applicable))~~ do not apply: Section ~~((1301.11-13, section 1301.31, section 1301.43-57))~~ 1301.13, section 1301.33, section 1301.35-46, section 1303, section ~~((1308.41-48))~~ 1308.41-45, and section 1316.31-67. ~~((The following specific rules shall take precedence over the federal rules adopted herein by reference, and therefore any inconsistencies shall be resolved in favor of the following specific rules.))~~ Any inconsistencies between Title 21 of the Code of Federal Regulations sections 1300 through 1321 and chapter 246-887 WAC should be resolved in favor of chapter 246-887 WAC. Further, nothing in these rules applies to the production, processing, distribution, or possession of marijuana as authorized and regulated by the Washington state liquor and cannabis board.

(2) **Registration.** A separate registration is required for each place of business, ~~((as defined in ((section 1301.23)))~~ 21 C.F.R. 1301.12 where controlled substances are manufactured, distributed or dispensed. Application for registration must be made on forms supplied by the commission, and all requested information ~~((called for thereon))~~ must be supplied unless the information is not applicable, ~~((iii))~~ which ~~((ease it))~~ must be indicated by the applicant. An applicant for registration must hold the appropriate wholesaler, manufacturer or pharmacy license provided for in chapter 18.64 RCW.

(3) Every registrant shall be required to keep inventory records required by ~~((section))~~ 21 C.F.R. 1304.04 ~~((of the federal rules which have been adopted by reference by Rule 4))~~ and must maintain said inventory records for a period of two years from the date of inventory. Such registrants are fur-

ther required to keep a record of receipt and distribution of controlled substances. Such record shall include:

(a) Invoices, orders, receipts, etc. showing the date, supplier and quantity of drug received, and the name of the drug;

(b) Distribution records; i.e., invoices, etc. from wholesalers and manufacturers and prescriptions records for dispensers;

(c) In the event of a significant loss ((by)) or theft ((or destruction)), two copies of DEA 106 (report of theft or loss of controlled substances) must be transmitted to the federal authorities and a copy must be sent to the commission;

(d) For transfers of controlled substances from one dispenser to another, a record of the transfer must be made at the time of transfer indicating the drug, quantity, date of transfer, who it was transferred to and from whom. Said record must be retained by both the transferee and the transferor. These transfers can only be made in emergencies pursuant to ((section)) 21 C.F.R. 1307.11 ((federal rules))).

(4) The records must be maintained separately for Schedule II drugs. The records for Schedule III, IV and V drugs may be maintained either separately or in a form that is readily retrievable from the business records of the registrant. ((Prescription records will be deemed readily retrievable if the prescription has been stamped in red ink in the lower right hand corner with the letter "C" no less than one inch high, and said prescriptions are filed in a consecutively numbered prescription file which includes prescription and noncontrolled substancees.))

(5) A federal order form is required for each distribution of a Schedule I or II controlled substance, and said forms along with other records required to be kept must be made readily available to authorized employees of the commission.

(6) Schedule II drugs require that a dispenser have a signed prescription in his possession prior to dispensing said drugs. An exception is permitted in an "emergency." An emergency exists when the immediate administration of the drug is necessary for proper treatment and no alternative treatment is available, and further, it is not possible for the physician to provide a written or electronic prescription for the drug at that time. If a Schedule II drug is dispensed in an emergency, the practitioner must deliver a signed prescription to the dispenser within ((72 hours)) seven days after authorizing an emergency oral prescription or if delivered by mail it must be postmarked within the seven-day period, and further ((he)) the pharmacist must note on the prescription that it was filled on an emergency basis.

(7) A prescription for a substance included in Schedule II may not be refilled.

(8) A prescription for a substance included in Schedule II may not be filled more than six months after the date the prescription was issued.

(9) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written, oral, or electronically communicated prescription of a practitioner. Any oral prescription must be promptly reduced to writing. The prescription for a substance included in Schedule III, IV, or V may not be filled

or refilled more than six months after the date issued by the practitioner or be refilled more than five times, unless the practitioner issues a new prescription.

AMENDATORY SECTION (Amending WSR 91-18-057, filed 8/30/91, effective 9/30/91)

WAC 246-887-080 Sodium pentobarbital registration disciplinary action. In addition to any criminal or civil liabilities that may occur, the ((board)) pharmacy quality assurance commission (commission) may deny, suspend, or revoke registration upon determination that:

(1) The registration was procured through fraud or misrepresentation((,));

(2) The registrant or any agent or employee of the registrant has violated any of the federal or state laws related to drugs, or has violated any of the rules or regulations of the ((board of pharmacy)) commission.

AMENDATORY SECTION (Amending WSR 91-18-057, filed 8/30/91, effective 9/30/91)

WAC 246-887-090 Authority to control. Pursuant to the authority granted to the ((board of)) pharmacy quality assurance commission (commission) in RCW 69.50.201, the ((board)) commission has considered the following factors with regards to each of the substances listed in this chapter and in chapter 69.50 RCW:

(1) The actual or relative potential for abuse;

(2) The scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the substance;

(4) The history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) The risk to the public health;

(7) The potential of the substance to produce psychic or psychological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under the Uniform Controlled Substances Act (chapter 69.50 RCW).

AMENDATORY SECTION (Amending WSR 11-22-086, filed 11/1/11, effective 12/2/11)

WAC 246-887-100 Schedule I. The ((board)) pharmacy quality assurance commission (commission) finds that the following substances have high potential for abuse and have no accepted medical use in treatment in the United States or that they lack accepted safety for use in treatment under medical supervision. ((The board, therefore,)) In addition to the substances scheduled in RCW 69.50.204 the commission places each of the following controlled substances by whatever official name, common or usual name, chemical name, or brand name in Schedule I.

((a)) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

((b))) (1) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of iso-

mers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- ((1) Acetyl alpha methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol; (except for levo alphacetylmethadol—Also known as levo alpha-acetylmethadol, levo-methadyl acetate or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha methylfentanyl (N-[1-alpha-methyl-beta-phenyl]ethyl-4-piperidyl) propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Benzethidine;
- (9) Betacetylmethadol;
- (10) Betameprodine;
- (11) Betamethadol;
- (12) Betaprodine;
- (13) Clonitazene;
- (14) Dextromoramide;
- (15) Diamppromide;
- (16) Diethylthiambutene;
- (17) Difenoxin;
- (18) Dimenoxadol;
- (19) Dimepheptanol;
- (20) Dimethylthiambutene;
- (21) Dioxaphetyl butyrate;
- (22) Dipipanone;
- (23) Ethylmethylthiambutene;
- (24) Etonitazene;
- (25) Etoxeridine;
- (26) Furethidine;
- (27) Gamma hydroxybutyric Acid (other names include: GHB);
- (28) Hydroxypethidine;
- (29) Ketobemidone;
- (30) Levomoramide;
- (31) Levophenacylmorphan;
- (32) 3-Methylfentanyl (N-[3-Methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (33) Morpheridine;
- (34) MPPP (1-Methyl-4-phenyl-4-propionoxypiperidine);
- (35) Noracetylmethadol;
- (36) Norlevorphanol;
- (37) Normethadone;
- (38) Norpipanone;
- (39) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxy-piperidine);
- (40) Phenadoxone;
- (41) Phenampronide;
- (42) Phenomorphan;
- (43) Phenoperidine;
- (44) Piritramide;
- (45) Proheptazine;
- (46) Properidine;
- (47) Propiram;
- (48) Racemoramide;

(49) Tilidine;

(50) Trimeperidine;

((e))) (a) (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide); some other names: Acetyl fentanyl;

(b) 3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers; some other names: U-47700;

(c) 3,4-dichloro-N-[1-(dimethylamino)cyclohexylmethyl]benzamide; some other names: AH-7921;

(d) Dextrorphan;

(e) N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers; some other names: Acryl fentanyl and acryloylfentanyl;

(f) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers; some other names: Butyryl fentanyl;

(g) N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers; some other names: Furanyl fentanyl;

(h) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers; some other names: 4-fluoroisobutyryl fentanyl and para-fluoroisobutyryl fentanyl;

(i) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers; some other names: Beta-hydroxythiofentanyl;

(j) Proheptazine.

(2) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, ((their)) its salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

((1) Acetorphine;

(2) Acetyldihydrocodeine;

(3) Benzylmorphine;

(4) Codeine methylbromide;

(5) Codeine N-Oxide;

(6) Cyprenorphine;

(7) Desomorphine;

(8) Dihydromorphine;

(9) Drotabanol;

(10) Etorphine (except hydrochloride salt);

(11) Heroin;

(12) Hydromorophinol;

(13) Methyldesorphine;

(14) Methylidihydromorphine;

(15) Morphine methylbromide;

(16) Morphine methylsulfonate;

(17) Morphine N-Oxide;

(18) Myrophine;

(19) Nicocodeine;

(20) Nicomorphine;

(21) Normorphine;

(22) Pholeodine;

(23) Thebaeon;

((d))) Methylhydromorphone.

(3) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material,

compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation ((f)). For purposes of ((paragraph (d) of this section,)) this subsection only, the term "isomer" includes the optical, position, and geometric isomers((f)).

(1) ~~4-bromo-2,5-dimethoxy amphetamine~~: Some trade or other names: ~~4-bromo-2,5-dimethoxy a methylphenethylamine~~; ~~4-bromo-2,5-DMA~~;

(2) ~~2,5-dimethoxyamphetamine~~: Some trade or other names: ~~2,5-dimethoxy a methylphenethylamine~~; ~~2,5-DMA~~;

(3) ~~2,5-dimethoxy 4 ethylamphetamine (DOET)~~

(4) ~~4-methoxyamphetamine~~: Some trade or other names: ~~4-methoxy a methylphenethylamine~~; ~~paramethoxyamphetamine~~; ~~PMA~~;

(5) ~~5-methoxy-3,4-methylenedioxy amphetamine~~;

(6) ~~4-methyl-2,5-dimethoxy amphetamine~~: Some trade and other names: ~~4-methyl-2,5-dimethoxy a methylphenethylamine~~; ~~"DOM"~~; and ~~"STP"~~;

(7) ~~3,4-methylenedioxy amphetamine~~;

(8) ~~3,4-methylenedioxymethamphetamine (MDMA)~~;

(9) ~~3,4,5-trimethoxy amphetamine~~;

(10) ~~Bufotenine~~: Some trade or other names: ~~3-(beta-Dimethylaminoethyl)-5-hydroxindole~~; ~~3-(2-dimethylaminoethyl)-5-indolol~~; ~~N,N-dimethylserotonin~~; ~~5-hydroxy N,N-dimethyltryptamine~~; ~~mappine~~;

(11) ~~Diethyltryptamine~~: Some trade or other names: ~~N,N-Diethyltryptamine~~; ~~DET~~;

(12) ~~Dimethyltryptamine~~: Some trade or other names: ~~DMT~~;

(13) ~~Ibogaine~~: Some trade or other names: ~~7-Ethyl-6,6-beta,7,8,9,10,12,13, octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2':1,2) azepino (5,4-b) indole~~; ~~Tabernanthe iboga~~;

(14) ~~Lysergic acid diethylamide~~;

(15) ~~Marijuana~~;

(16) ~~Mescaline~~;

(17) ~~Parahexyl 7374~~: some trade or other names: ~~3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran~~; ~~synhexyl~~;

(18) ~~Peyote~~, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii Lemaire*, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. § 812 (e), Schedule I (e)(12))

(19) ~~N-ethyl-3-piperidyl benzilate~~;

(20) ~~N-methyl-3-piperidyl benzilate~~;

(21) ~~Psilocybin~~;

(22) ~~Psilocyn~~;

(23) Any of the following synthetic cannabinomimetics, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) ~~Naphthoylindoles~~: Any compound containing a ~~3-(1-naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group~~, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, ~~JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, and AM-2201~~;

~~eycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, and AM-2201~~;

(ii) ~~Naphthylmethylindoles~~: Any compound containing a ~~1H-indol-3-yl (1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-175, JWH-184, and JWH-199~~;

(iii) ~~Naphthoylpyrroles~~: Any compound containing a ~~3-(1-naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-307~~;

(iv) ~~Naphthylmethylindenes~~: Any compound containing a ~~naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-176~~;

(v) ~~Phenylacetylindoles~~: Any compound containing a ~~3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, JWH-203, JWH-250, JWH-251, and RCS-8~~;

(vi) ~~Cyclohexylphenols~~: Any compound containing a ~~2-(3-hydroxyeyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not substituted in the cyclohexyl ring to any extent including, but not limited to, Cannabicyclohexanol, and CP 47,497~~;

(vii) ~~Benzoylindoles~~: Any compound containing a ~~3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, AM-694, Pravadoline (WIN 48,098), RCS-4, and AM-1241~~;

(viii) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de][1,4]benzoxazin-6-yl]1-naphthalenylmethanone; Some trade or other names: WIN 55,212-2.

(24) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp., and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) Delta 1-cis- or trans-tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) Delta 6-cis- or trans-tetrahydrocannabinol, and their optical isomers;

(iii) Delta 3,4-cis- or trans-tetrahydrocannabinol, and its optical isomers;

(iv) (6aR,10aR) 9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[e]chromen-1-ol; Some trade or other names: HU 210.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(25) Ethylamine analog of phenacyclidine; Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(26) Pyrrolidine analog of phenacyclidine; Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(27) Thiophene analog of phenacyclidine; Some trade or other names: 1-(1-[2-thenyl]cyclohexyl) pipendine; 2-thienyl analog of phenacyclidine; TPCP; TCP;

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Mecloqualone;

(ii) Methaqualone;

(f):

(a) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one; some other names: butylone and bk-MBDB;

(b) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one; some other names: pentylone and bk-MBDP;

(c) 2-(2,5-Dimethoxy-4-(n-propylphenyl)ethanamine; some other names: 2C-P;

(d) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine; some other names: 2C-E;

(e) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine; some other names: 2C-D;

(f) 2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine; some other names: 2C-N;

(g) 2-(2,5-Dimethoxyphenyl)ethanamine; some other names: 2C-H;

(h) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine; some other names: 25B-NBOMe and 2C-B-NBOMe;

(i) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine; some other names: 2C-C;

(j) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine; some other names: 25C-NBOMe and 2C-C-NBOMe;

(k) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine; some other names: 2C-I;

(l) 2-(4-Iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine; some other names: 25I-NBOMe and 2C-I-NBOMe;

(m) 2,5-dimethoxyamphetamine; some other names: 2,5-dimethoxy-alpha-methylphenethylamine and 2,5-DMA;

(n) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine; some other names: 2C-T-2;

(o) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine; some other names: 2C-T-4;

(p) 3,4-Methylenedioxymethcathinone; some other names: Methylene;

(q) 3,4-methylenedioxy-N-ethylamphetamine; some other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)-phenethylamine, N-ethyl MDA, MDE, and MDEA;

(r) 3,4-Methylenedioxypyrovalerone; some other names: MDPV;

(s) 4-bromo-2,5-dimethoxyamphetamine; Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; some other names: 4-bromo-2,5-DMA;

(t) 4-methoxyamphetamine; some other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine, PMA;

(u) 4-methyl-2,5-dimethoxyamphetamine;

(v) 4-methyl-2,5-dimethoxyamphetamine; some other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM;" and "STP";

(w) 4-Methylmethcathinone; some other names: Mephedrone;

(x) 5-methoxy-N,N-dimethyltryptamine; some other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole and 5-MeO-DMT;

(y) Alpha-ethyltryptamine; some other names: Eryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;

(z) Beta-keto-N-Methylbenzodioxolylpropylamine; some other names: bk-MBDB and Butylone;

(aa) Ethylamine analog of phenacyclidine; some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE;

(bb) Ibogaine; some other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido[1',2':1,2]azepino[5,4-b]indole; and Tabernanthe iboga;

(cc) Marijuana Extract—Meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus *Cannabis*, other than the separated resin (whether crude or purified) obtained from the plant;

(dd) N-hydroxy-3,4-methylenedioxymphetamine; some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)-phenethylamine; and N-hydroxy MDA;

(ee) Pyrrolidine analog of phenacyclidine; some other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; and PHP;

(ff) Thiophene analog of phencyclidine; some other names: 1-[1-(2-thienyl)-cyclohexyl]-pipendine; 2-thienyl analog of phencyclidine; TPCP; TCP.

(4) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

((+) (a) Cathinone (()): also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone(:); 2-amino-
propiophenone; and norephedrone(:);

((2) 4-Fluoromethaethinone (Flephedrone);

(3) Beta keto N Methylbenzodioxolylpropylamine (bk-MBDB, Butylone);

(4) 3,4 Methyleneedioxymethaethinone (Methyline);

(5) 3,4 Methyleneedioxy pyrovalerone (MDPV);

(6) 4 Methylmethaethinone (Mephedrone);

(7) Fenethylline;

(8) N-ethylamphetamine;

(9) 4-methylaminorex;

(10) (b) N,N-dimethylamphetamine; some other names: N,N-alpha-trimethyl-benzeneethanamine; and N,N-alpha-trimethylphenethylene.

(5) Cannabimimetic agents and synthetic cannabinoids.

Any of the following synthetic cannabimimetics and cannabinoids, commonly known as spice, their salts, isomers, and salts of isomers, unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quality of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) (1-pentyl-1H-indol-3-yl) (2,2,3,3-tetramethylcyclopropyl)methanone; some other names: UR-144;

(b) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: THJ-2201;

(c) [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone; some other names: 5-fluoro-UR-144 and XLR11;

(d) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole; some other names: AM2201;

(e) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole; some other names: AM694;

(f) 1-[2-(4-morpholiny)ethyl]-3-(1-naphthoyl)indole; some other names: JWH-200;

(g) 1-butyl-3-(1-naphthoyl)indole; some other names: JWH-073;

(h) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole; some other names: SR-18 and RCS-8;

(i) 1-hexyl-3-(1-naphthoyl)indole; some other names: JWH-019;

(j) 1-pentyl-3-(1-naphthoyl)indole; some other names: JWH-018 and AM678;

(k) 1-pentyl-3-(2-chlorophenylacetyl)indole; some other names: JWH-203;

(l) 1-pentyl-3-(2-methoxyphenylacetyl)indole; some other names: JWH-250;

(m) 1-pentyl-3-(4-chloro-1-naphthoyl)indole; some other names: JWH-398;

(n) 1-pentyl-3-(4-methyl-1-naphthoyl)indole; some other names: JWH-122;

(o) 1-pentyl-3-[(4-methoxy)-benzoyl]indole; some other names: SR-19 and RCS-4;

(p) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole; some other names: JWH-081;

(q) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol; some other names: CP-47,497;

(r) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol; some other names: cannabicyclohexanol or CP-47,497 C8-homolog;

(s) Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers; some other names: MDMB-FUBINACA;

(t) Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers; some other names: 5F-ADB; and 5F-MDMB-PINACA;

(u) Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers; some other names: 5F-AMB;

(v) Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers; some other names: MDMB-CHMICA; and MMB-CHMINACA;

(w) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide; some other names: APINACA and AKB48;

(x) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers; some other names: ADB-FUBINACA;

(y) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers; some other names: MAB-CHMINACA; and ADB-CHMINACA;

(z) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide; some other names: ADB-PINACA;

(aa) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide; some other names: AB-FUBINACA;

(bb) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: AB-CHMINACA;

(cc) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: AB-PINACA;

(dd) N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers; some other names: 5F-APINACA; and 5F-AKB48;

(ee) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate; some other names: 5-fluoro-PB-22; and 5F-PB-22;

(ff) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate; some other names: PB-22; and QUPIC.

(6) Synthetic cathinones, commonly known as bath salts, and its derivatives. Unless specifically exempted or listed in another schedule, any of the following synthetic cathinone and derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific designation:

(a) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one; some other names: Naphyrone;

(b) 2-(methylamino)-1-phenylpentan-1-one; some other names: Pentedrone;

(c) 3-fluoro-N-methylcathinone; some other names: 3-FMC;

(d) 4-fluoro-N-methylcathinone; some other names: 4-FMC and flephedrone;

(e) 4-methyl-alpha-pyrrolidinopropiophenone; some other names: 4-MePPP;

(f) 4-methyl-N-ethylcathinone; some other names: 4-MEC;

(g) Alpha-pyrrolidinobutriophenone; some other names: Alpha-PBP;

(h) Alpha-pyrrolidinopentiophenone; some other names: Alpha-PVP;

(i) N-Ethylpentylone, its optical, positional, and geometric isomers, salts and salts of isomers; some other names: 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one).

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 00-01-075, filed 12/13/99)

WAC 246-887-140 Schedule II. The ((board)) pharmacy quality assurance commission (commission) finds that the following substances have a high potential for abuse and have currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions and that the abuse of the following substances may lead to severe psychic or psychological dependence. ((The board, therefore,)) In addition to the substances listed in RCW 69.50.206, the commission places each of the following drugs and other substances by whatever official name, common or usual name, chemical name, or brand name in Schedule II.

((a)) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

((b)) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

((1)) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomor-

phine, dextrophan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

- ((i)) Raw opium;
- ((ii)) Opium extracts;
- ((iii)) Opium fluid;
- ((iv)) Powdered opium;
- ((v)) Granulated opium;
- ((vi)) Tincture of opium;
- ((vii)) Codeine;
- ((viii)) Ethylmorphine;
- ((ix)) Etorphine hydrochloride;
- ((x)) Hydrocodone;
- ((xi)) Hydromorphone;
- ((xii)) Metoper;
- ((xiii)) Morphine;
- ((xiv)) Oxycodone;
- ((xv)) Oxymorphone; and
- ((xvi)) Thebaine.

((2)) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph ((b))(1) of this section, but not including the isoquinoline alkaloids of opium:

((3)) Opium poppy and poppy straw.

((4)) ((1)) Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine; or ^{[123]I}ioflupane.

((5)) Methylenbenzyleggonine (ecocaine — its salts, optical isomers, and salts of optical isomers).

((6)) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy).

((7)) ((2)) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts((;)) and salts of isomers, esters((;)) and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:

- ((1)) Alfentanil;
- ((2)) Alphaprodine;
- ((3)) Anileridine;
- ((4)) Bezitramide;
- ((5)) Bulk dextropropoxyphene (nondosage forms);
- ((6)) Carfentanil;
- ((7)) Dihydrocodeine;
- ((8)) Diphenoxylate;
- ((9)) Fentanyl;
- ((10)) Isomethadone;
- ((11)) Levo-alpha-acetylmethadol — also known as levo-alpha-acetylmethadol, levomethadol acetate or LAAM;
- ((12)) Levomethorphan;
- ((13)) Levorphanol;
- ((14)) Metazocine;
- ((15)) Methadone;

- (16) ~~Methadone Intermediate, 4-cyano-2-dimethylamino-4,4-diphenylbutane;~~
- (17) ~~Moramide Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane carboxylic acid;~~
- (18) ~~Pethidine (meperidine);~~
- (19) ~~Pethidine Intermediate A,4-cyano-1-methyl-4-phenylpiperidine;~~
- (20) ~~Pethidine Intermediate B,ethyl-4-phenylpiperidine-4-carboxylate;~~
- (21) ~~Pethidine Intermediate C,1-methyl-4-phenylpiperidine-4-carboxylic acid;~~
- (22) ~~Phenazocine;~~
- (23) ~~Piminodine;~~
- (24) ~~Racemethorphan;~~
- (25) ~~Remifentanil;~~
- (26) ~~Racemorphan;~~
- (27) ~~Sufentanil.~~

(d) ~~Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:~~

- (1) ~~Amphetamine, its salts, optical isomers, and salts of its optical isomers;~~
- (2) ~~Methamphetamine, its salts, optical isomers, and salts of optical isomers;~~

- (3) ~~Phenmetrazine and its salts;~~
- (4) ~~Methylphenidate.~~

(e) ~~Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:~~

- (1) ~~Amobarbital;~~
- (2) ~~Glutethimide;~~
- (3) ~~Pentobarbital;~~
- (4) ~~Phenyleclidine;~~
- (5) ~~Secobarbital.~~
- (f)) ~~Thiafentanil.~~

(3) Hallucinogenic substances.

(a) Dronabinol[(-)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration;

(b) Nabilone; some other names: (±)-trans-3-(1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzol[b,d]pyran-9-one.

(4) ~~Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances: ((1) Immediate precursor to amphetamine and methamphetamine;~~

~~(2) Phenylacetone; Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone;~~

~~(3) Immediate precursors to phenyleclidine (PCP);~~

~~(i) 1-phenylethoxyhexylamine;~~

~~(ii) 1-piperidinocyclohexanecarbonitrile (PCC);~~

~~(g) Hallucinogenic substances.~~

(1) Nabilone. (Another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzol[b,d]pyran-9-one.)) Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP).

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 94-07-105, filed 3/18/94, effective 3/18/94)

WAC 246-887-150 Schedule II immediate precursors. ((1)) The ((board)) pharmacy quality assurance commission (commission) finds and designates the following substances as being the principal compound used or produced primarily for use and which are an immediate chemical intermediary used or likely to be used, in the manufacture of a Schedule II controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

((2)) (1) Unless specifically excepted or listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances or their salts or isomers having potential for abuse associated with the preparation of controlled substances shall be a Schedule II controlled substance.

- (a) Anthranilic acid.
- (b) Ephedrine.
- (c) Hydriodic acid.
- (d) Methylamine.
- (e) Phenylacetic acid.
- (f) Pseudoephedrine.
- (g) Methamphetamine.
- (h) Lead acetate.
- (i) Methyl formamide.

((Provided:That)) (2) Any drug or compound containing Ephedrine, or any of its salts or isomers, or Pseudoephedrine, or any of its salts or isomers that are prepared for dispensing or over-the-counter distribution and are in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances for the purpose of this section((. And Provided Further, That)).

(3) Any cosmetic containing lead acetate that is distributed in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances.

AMENDATORY SECTION (Amending WSR 04-13-162, filed 6/23/04, effective 7/24/04)

WAC 246-887-160 Schedule III. The ((board)) pharmacy quality assurance commission (commission) finds that the following substances have a potential for abuse less than the substances listed in Schedule((s)) I under RCW 69.50.204 and WAC 246-887-100 and Schedule II under RCW 69.50.206 and WAC 246-887-140, and have currently accepted medical use in treatment in the United States and that the abuse of the substances may lead to moderate or low physical dependency or high psychological dependency. ((The board, therefore,)) In addition to substances listed in RCW 69.50.-

208, the commission places each of the following drugs and other substances by whatever official name, common or usual name, chemical name, or brand name in Schedule III.

((a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations are referred to as excepted compounds in Schedule III as published in 21 C.F.R. 1308.13 (b)(1) as of April 1, 1984, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Phendimetrazine.

((e)) (1) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system: ((1) Any compound, mixture, or preparation containing:

- (i) Amobarbital;
- (ii) Secobarbital;
- (iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

- (2) Any suppository dosage form containing:
- (i) Amobarbital;
- (ii) Secobarbital;
- (iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

- (4) Chlorhexadol;

(5) Ketamine, its salts, isomers, and salts of isomers—some other names for ketamine: (<plus minus>) 2-(2-chlorophenyl)-2-(methylamino)cyclohexanone;

- (6) Lysergic acid;
- (7) Lysergic acid amide;
- (8) Methyprylon;
- (9) Sulfondiethylmethane;
- (10) Sulfonethylmethane;
- (11) Sulfonmethane;

(12) Tiletamine and zolazepam or any salt thereof—some trade or other names for a zolazepam-combi-

nation product: Telazol some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)cyclohexanone—some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo[3,4-e][1,4]diazepin-7(III)-one flupyrazapon.

(d) Nalorphine.

((e))) Perampanel, and its salts, isomers, and salt of isomers.

(2) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, ((f)) other than estrogens, progestins, and corticosteroids((f)), that promotes muscle growth, and includes:

- ((1) Boldenone;
- (2) Chlorotestosterone;
- (3) Clostebol;
- (4) Dehydrochlormethyltestosterone;
- (5) Dihydrotestosterone;
- (6) Drostanolone;
- (7) Ethylestrenol;
- (8) Fluoxymesterone;
- (9) Formebulone (Formebolone);
- (10) Mesterolone;
- (11) Methandienone;
- (12) Methandranone;
- (13) Methandriol;
- (14) Methandrostenolone;
- (15) Methenolone;
- (16) Methyltestosterone;
- (17) Mibolerone;
- (18) Nandrolone;
- (19) Norethandrolone;
- (20) Oxandrolone;
- (21) Oxymesterone;
- (22) Oxymetholone;
- (23) Stanolone;
- (24) Stanozolol;
- (25) Testolactone;
- (26) Testosterone;
- (27) Trenbolone; and
- (28))) (a) 17alpha-methyl-3alpha,17beta-dihydroxy-5alpha-androstan;
- (b) 17alpha-methyl-3beta,17beta-dihydroxy-5alpha-androstan;
- (c) 17alpha-methyl-delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) some other names: '17-alpha-methyl-1-testosterone';
- (d) 19-nor-4,9(10)-androstadienedione (estr-4,9(10)-dine-3,17-dione);
- (e) Norandrostenediol:
- (i) 19-nor-4-androstenediol (3alpha, 17beta-dihydroxyestr-4-ene);
- (ii) 19-nor-4-androstenediol (3beta, 17beta-dihydroxyestr-4-ene);
- (iii) 19-nor-5-androstenediol (3beta, 17beta-dihydroxyestr-5-ene);
- (iv) 19-nor-5-androstenediol (3alpha, 17beta-dihydroxyestr-5-ene);
- (f) Norandrostenedione:
- (i) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(ii) 9-nor-5-androstenedione (estr-5-en-3,17-dione).

(g) Androstenediol:

(i) 3alpha,17beta-dihydroxy-5alpha-androstane;

(ii) 3beta,17beta-dihydroxy-5alpha-androstane.

(h) Boldione (androsta-1,4-diene-3,17-dione):

(i) Desoxymethyltestosterone (17alpha-methyl-5alpha-androst-2-en-17beta-ol); some other names: 'madol'.

(j) Mestanolone (17alpha-methyl-17beta-hydroxy-5alpha-androstan-3-one);

(k) Methasterone (2alpha,17alpha-dimethyl-5alpha-androstan-17beta-ol-3-one);

(l) Prostanazol (17beta-hydroxy-5alpha-androstan[3,2-c]pyrazole).

(m) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Except such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this ((paragraph)) subsection.

((The following are implants or pellets which are exempt:

Ingredients	Trade Name	Company
Testosterone Propionate, Oestradiol Benzoate	F-TO	Animal Health Div. Upjohn International Kalamazoo, MI
Trenbolone Acetate	Finaplix-H	Hoechst-Roussel Agri-Vet Co., Somerville, NJ
Trenbolone Acetate	Finaplix-S	Hoechst-Roussel Agri-Vet Co., Somerville, NJ
Testosterone Propionate, Estradiol Benzoate	Heifer-oid	Anchor Division Beechinger Ingelheim St. Joseph, MO
Testosterone Propionate, Estradiol Benzoate	Heifer-oid	Bio-Ceutic Division Boehringer Ingelheim St. Joseph, MO
Testosterone Propionate, Estradiol Benzoate	Heifer-oid	Ivy Laboratories, Inc. Overland Park, KS
Testosterone Propionate, Estradiol Benzoate	Implus	The Upjohn Co. Kalamazoo, MI
Trenbolone Acetate, Estradiol	Revalor-s	Hoechst-Roussel Agri-Vet Co., Somerville, NJ
Testosterone Propionate, Estradiol Benzoate	Synovex-H	Syntex Laboratories Palo Alto, CA

((3) Exempt anabolic steroid products. The following anabolic steroid products in Table A of this subsection containing compounds, mixtures, or preparations are exempt from the recordkeeping, refill restrictions, and other Controlled Substances Act requirements:

Ingredients	Trade Name	Company
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Androgyn L.A.	Forest Pharmaceuticals St. Louis, MO
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Andro-Estro 90-4	Rugby Laboratories Rockville Centre, NY
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	depANDROGYN	Forest Pharmaceuticals St. Louis, MO
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	DEPO-T.E.	Quality Research Laboratories Carmel, IN
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	depTESTROGEN	Martica Pharmaceuticals Phoenix, AZ
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Duomone	Wintec Pharmaceutical Pacific, MO
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	DURATESTRIN	W.E. Hauck Alpharetta, GA
Testosterone cypionate 50 mg/ml Esterified cypionate 2 mg/ml	DUO-SPAN II	Primedies Laboratories Gardena, CA
Esterified estrogens 1.25 mg. Methyltestosterone 2.5 mg.	Estratest	Solvay Pharmaceuticals Marietta, GA
Esterified estrogens 0.525 mg. Methyltestosterone 1.25 mg.	Estratest HS	Solvay Pharmaceuticals Marietta, GA
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	PAN ESTRA TEST	Pan American Labs Covington, LA
Conjugated estrogens 1.25 mg. Methyltestosterone 10 mg.	Premarin with Methyltestosterone	Ayerst Labs, Inc. New York, NY
Conjugated estrogens 0.625 mg. Methyltestosterone 5 mg.	Premarin with Methyltestosterone	Ayerst Labs, Inc. New York, NY
Testosterone propionate 25 mg Estradiol benzoate 2.5 mg	Synovex H Pellets in process	Syntex Animal Health Palo Alto, CA
Testosterone propionate 10 parts Estradiol benzoate 1 part	Synovex H Pellets in process, granulation	Syntex Animal Health Palo Alto, CA

Ingredients	Trade Name	Company
Testosterone cypionate 50 mg/ml	Testagen	Clint Pharmaceutical Nashville, TN
Estradiol cypionate 2 mg/ml		
Testosterone cypionate 50 mg/ml	TEST-ESTRO Cypionate	Rugby Laboratories Rockville Centre, NY
Estradiol cypionate 2 mg/ml		
Testosterone cypionate 50 mg/ml	Testosterone Cyp 50	I.D.E. Interstate
Estradiol cypionate 2 mg/ml	Estradiol Cyp 2	Amityville, NY
Testosterone cypionate 50 mg/ml	Testosterone Cypionate-Estradiol Cypionate Injection	Best Generics No. Miami Beach, FL
Estradiol cypionate 2 mg/ml		
Testosterone cypionate 50 mg/ml	Testosterone Cypionate-Estradiol Cypionate Injection	Goldline Labs Ft. Lauderdale FL
Estradiol cypionate 2 mg/ml		
Testosterone cypionate 50 mg/ml	Testosterone Cypionate-Estradiol Cypionate Injection	Sehein Pharmaceuticals Port Washington, NY
Estradiol cypionate 2 mg/ml		
Testosterone cypionate 50 mg/ml	Testosterone Cypionate-Estradiol Cypionate Injection	Steris Labs, Inc. Phoenix, AZ
Estradiol cypionate 2 mg/ml		
Testosterone enanthate 90 mg/ml	Testosterone-Enanthate-Estradiol Valerate Injection	Goldline Labs Ft. Lauderdale FL
Estradiol valerate 4 mg/ml		
Testosterone enanthate 90 mg/ml	Testosterone Enanthate-Estradiol Valerate Injection	Sehein Pharmaceuticals Port Washington, NY
Estradiol valerate 4 mg/ml		
Testosterone enanthate 90 mg/ml	Testosterone Enanthate-Estradiol Valerate Injection	Steris Labs, Inc. Phoenix, AZ
Estradiol valerate 4 mg/ml		

(g) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraph (e) of this section:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(h) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(1) Buprenorphine.

(i) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product. (Some other names for dronabinol [*6aR trans*] 6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3 pentyl 6H dibenz[b,d]pyran-1-ol, or (–) delta-9-(*trans*)-tetrahydrocannabinol.))

Table A

Trade Name	Company	Form	Ingredients	Quantity
Andro-Estro 90-4	Rugby Laboratories, Rockville Centre, NY	Vial	Testosterone enanthate; Estradiol valerate	90 mg/mL; 4 mg/mL
Androgyn L.A.	Forest Pharmaceuticals, St. Louis, MO	Vial	Testosterone enanthate; Estradiol valerate	90 mg/mL; 4 mg/mL
Component E-H in process granulation	Ivy Laboratories, Inc., Overland Park, KS	Pail or drum	Testosterone propionate; Estradiol benzoate	10 parts; 1 part
Component E-H in process pellets	Ivy Laboratories, Inc., Overland Park, KS	Pail	Testosterone propionate; Estradiol benzoate	25 mg/2.5 mg/pellet
Component TE-S in process granulation	Ivy Laboratories, Inc., Overland Park, KS	Pail or drum	Trenbolone acetate; Estradiol USP	5 parts; 1 part

<u>Trade Name</u>	<u>Company</u>	<u>Form</u>	<u>Ingredients</u>	<u>Quantity</u>
<u>Component TE-S in process pellets</u>	<u>Ivy Laboratories, Inc., Overland Park, KS</u>	<u>Pail</u>	<u>Trenbolone acetate; Estradiol USP</u>	<u>120 mg/24 mg/pellet</u>
<u>depANDROGYN</u>	<u>Forest Pharmaceuticals, St. Louis, MO</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>Depo-Testadiol</u>	<u>The Upjohn Company, Kalamazoo, MI</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>depTESTROGEN</u>	<u>Martica Pharmaceuticals, Phoenix, AZ</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>DEPTO-T.E.</u>	<u>Quality Research Pharm., Carmel, IN</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>Duomone</u>	<u>Wintec Pharmaceutical, Pacific, MO</u>	<u>Vial</u>	<u>Testosterone enanthate; Estradiol valerate</u>	<u>90 mg/mL; 4 mg/mL</u>
<u>DUO-SPAN II</u>	<u>Primedics Laboratories, Gardena, CA</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>DURATESTRIN</u>	<u>W. E. Hauck, Alpharetta, GA</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>Essian</u>	<u>Pharmaceutics International Inc., Hunt Valley, MD</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>1.25 mg; 2.5 mg</u>
<u>Essian H.S.</u>	<u>Pharmaceutics International Inc., Hunt Valley, MD</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>0.625 mg; 1.25 mg</u>
<u>Esterified Estrogens and Methyltestosterone, USP (0.625 mg/1.25 mg)</u>	<u>Interpharm, Inc.,</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>0.625 mg; 1.25 mg</u>
<u>Esterified Estrogens and Methyltestosterone, USP (1.25 mg/2.5 mg)</u>	<u>Interpharm, Inc.</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>1.25 mg; 2.5 mg</u>
<u>Esterified Estrogens/ Methyltestosterone, (0.625 mg/1.25 mg) Tablet</u>	<u>ANDAPharm, LLC</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>0.625 mg; 1.25 mg</u>
<u>Esterified Estrogens/ Methyltestosterone, (1.25 mg/2.5 mg) Tablet</u>	<u>ANDAPharm, LLC</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>1.25 mg; 2.5 mg</u>
<u>Estratest</u>	<u>Solvay Pharmaceuticals, Marietta, GA</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>1.25 mg; 2.5 mg</u>
<u>Estratest H.S.</u>	<u>Solvay Pharmaceuticals, Marietta, GA</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>0.625 mg; 1.25 mg</u>
<u>Masculinizing Feed for Fish (Investigational)</u>	<u>Rangen, Inc., Buhl, ID</u>	<u>Plastic Bags</u>	<u>Methyltestosterone</u>	<u>60 mg/kg fish feed</u>
<u>Menogen</u>	<u>Sage Pharmaceuticals, Shreveport, LA</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>1.25 mg; 2.5 mg</u>
<u>Menogen HS</u>	<u>Sage Pharmaceuticals, Shreveport, LA</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>0.625 mg; 1.25 mg</u>
<u>Methyltestosterone and Esterified Estrogens (2.5 mg/1.25 mg)</u>	<u>Lannett Company, Inc.</u>	<u>TB</u>	<u>Esterified estrogens; Methyl-testosterone</u>	<u>1.25 mg; 2.5 mg</u>

<u>Trade Name</u>	<u>Company</u>	<u>Form</u>	<u>Ingredients</u>	<u>Quantity</u>
<u>Methyltestosterone and Esterified Estrogens (Half Strength) (1.25 mg/0.625 mg)</u>	<u>Lannett Company, Inc.</u>	<u>TB</u>	<u>Esterified estrogens; Methyltestosterone</u>	<u>0.625 mg; 1.25 mg</u>
<u>PAN ESTRA TEST</u>	<u>Pan American Labs; Covington, LA</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>Premarin with Methyltestosterone</u>	<u>Ayerst Labs Inc., New York, NY</u>	<u>TB</u>	<u>Conjugated estrogens; Methyltestosterone</u>	<u>0.625 mg; 5.0 mg</u>
<u>Premarin with Methyltestosterone</u>	<u>Ayerst Labs Inc., New York, NY</u>	<u>TB</u>	<u>Conjugated estrogens; Methyltestosterone</u>	<u>1.25 mg; 10.0 mg</u>
<u>Synovex H in-process bulk pellets</u>	<u>Syntex Animal Health, Palo Alto, CA</u>	<u>Drum</u>	<u>Testosterone propionate; Estradiol benzoate</u>	<u>25 mg; 2.5 mg/pellet</u>
<u>Synovex H in-process granulation</u>	<u>Syntex Animal Health, Palo Alto, CA</u>	<u>Drum</u>	<u>Testosterone propionate; Estradiol benzoate</u>	<u>10 part; 1 part</u>
<u>Synovex Plus in-process bulk pellets</u>	<u>Fort Dodge Animal Health, Fort Dodge, IA</u>	<u>Drum</u>	<u>Trenbolone acetate; Estradiol benzoate</u>	<u>25 mg; 3.5 mg/pellet</u>
<u>Synovex Plus in-process granulation</u>	<u>Fort Dodge Animal Health, Fort Dodge, IA</u>	<u>Drum</u>	<u>Trenbolone acetate; Estradiol benzoate</u>	<u>25 parts; 3.5 parts</u>
<u>Syntest D.S.</u>	<u>Syntho Pharmaceuticals, Inc.</u>	<u>TB</u>	<u>Esterified estrogens; Methyltestosterone</u>	<u>1.25 mg; 2.5 mg</u>
<u>Syntest H.S.</u>	<u>Syntho Pharmaceuticals, Inc.</u>	<u>TB</u>	<u>Esterified estrogens; Methyltestosterone</u>	<u>0.625 mg; 1.25 mg</u>
<u>TEST-ESTRO Cypionates</u>	<u>Rugby Laboratories, Rockville Centre, NY</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>Testoderm 4 mg/d</u>	<u>Alza Corp., Palo Alto, CA</u>	<u>Patch</u>	<u>Testosterone</u>	<u>10 mg</u>
<u>Testoderm 6 mg/d</u>	<u>Alza Corp., Palo Alto, CA</u>	<u>Patch</u>	<u>Testosterone</u>	<u>15 mg</u>
<u>Testoderm in-process film</u>	<u>Alza Corp., Palo Alto, CA</u>	<u>Sheet</u>	<u>Testosterone</u>	<u>0.25 mg/cm²</u>
<u>Testoderm with Adhesive 4 mg/d</u>	<u>Alza Corp., Palo Alto, CA</u>	<u>Patch</u>	<u>Testosterone</u>	<u>10 mg</u>
<u>Testoderm with Adhesive 6 mg/d</u>	<u>Alza Corp., Palo Alto, CA</u>	<u>Patch</u>	<u>Testosterone</u>	<u>15 mg</u>
<u>Testoderm with Adhesive in-process film</u>	<u>Alza Corp., Palo Alto, CA</u>	<u>Sheet</u>	<u>Testosterone</u>	<u>0.25 mg/cm²</u>
<u>Testosterone Cyp 50 Estradiol Cyp 2</u>	<u>I.D.E.-Interstate, Amityville, NY</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>Testosterone Cypionate/Estradiol Cypionate Injection</u>	<u>Best Generics, North Miami Beach, FL</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>Testosterone Cypionate/Estradiol Cypionate Injection</u>	<u>Goldline Labs, Ft. Lauderdale, FL</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>
<u>Testosterone Cypionate/Estradiol Cypionate Injection</u>	<u>Schein Pharmaceuticals, Port Washington, NY</u>	<u>Vial</u>	<u>Testosterone cypionate; Estradiol cypionate</u>	<u>50 mg/mL; 2 mg/mL</u>

Trade Name	Company	Form	Ingredients	Quantity
Testosterone Cypionate/Estradiol Cypionate Injection	Steris Labs Inc., Phoenix, AZ	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 10-02-080, filed 1/5/10, effective 2/5/10)

WAC 246-887-170 Schedule IV. The ((board)) pharmacy quality assurance commission (commission) finds that the following substances have a low potential for abuse relative to substances in Schedule III under RCW 69.50.208 and WAC 246-887-160, and have currently accepted medical use in treatment in the United States and that the abuse of the substances may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III. ((The board, therefore,)) In addition to substances listed in RCW 69.50.210, the commission places each of the following drugs and substances by whatever official name, common or usual name, chemical name, or brand name in Schedule IV.

((a)) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule IV.

((b)) (1) Narcotic drugs. Unless specifically ((excepted)) exempted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set ((forth below):

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha (+)- ϵ -dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

((e)) in this subsection: 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol).

(2) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- ((1)) Alprazolam;
- (2) Barbital;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Carisoprodol;
- (6) Chloral betaine;
- (7) Chloral hydrate;
- (8) Chlordiazepoxide;
- (9) Clobazam;
- (10) Clonazepam;
- (11) Clorazepate;
- (12) Clotiazepam;

- (13) Cloxazolam;
- (14) Delorazepam;
- (15) Diazepam;
- (16) Estazolam;
- (17) Ethchlorvynol;
- (18) Ethinamate;
- (19) Ethyl loflazepate;
- (20) Fludiazepam;
- (21) Flunitrazepam;
- (22) Flurazepam;
- (23) Halazepam;
- (24) Haloxazolam;
- (25) Ketazolam;
- (26) Loprazolam;
- (27) Lorazepam;
- (28) Lormetazepam;
- (29) Mebutamate;
- (30) Medazepam;
- (31) Meprobamate;
- (32) Methohexitol;
- (33) Methylphenobarbital (mephobarbital);
- (34) Midazolam;
- (35) Nimetazepam;
- (36) Nitrazepam;
- (37) Nordiazepam;
- (38) Oxazepam;
- (39) Oxazolam;
- (40) Paraldehyde;
- (41) Petrichloral;
- (42) Phenobarbital;
- (43) Pinazepam;
- (44) Prazepam;
- (45) Quazepam;
- (46) Temazepam;
- (47) Tetrazepam;
- (48) Triazolam;
- (49) Zolpidem.

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position or geometric), and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible.

- ((e)) (a) Alfaxalone;
- (b) Fospropofol;
- (c) Suvorexant.

(3) Any material, compound, mixture, or preparation which contains any quantity of Lorcaserin, including its salts, isomers, and salts of such isomers, wherever the existence of such salts, isomers, and salts of isomers is possible.

(4) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following

substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- ((1)) (a) Cathine ((+)-norpseudoephedrine);
- ((2)) ~~Diethylpropion;~~
- (3) ~~Fencamfamin;~~
- (4) ~~Fenproporex;~~
- (5) ~~Mazindol;~~
- (6) ~~Mefenorex;~~
- (7) ~~Pemoline (including organometallic complexes and chelates thereof);~~
- (8) ~~Phentermine;~~
- (9) ~~Pipradrol;~~
- (10)) (b) SPA ((-)-1-dimethylamino-1,((2-dephenylethane))2-diphenylethane).

((4)) (5) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

- ((1)) ~~Pentazocine;~~
- (2) ~~Butorphanol.) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.~~

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 91-18-057, filed 8/30/91, effective 9/30/91)

WAC 246-887-180 Schedule V. The ((board)) ~~pharmacy quality assurance commission (commission)~~ finds that the following substances have low potential for abuse relative to substances in Schedule IV ~~under RCW 69.50.210 and WAC 246-887-170~~ and have currently accepted medical use in treatment in the United States and that the substances have limited physical dependence or psychological dependence liability relative to the substance in Schedule IV. ((The board, therefore,)) ~~In addition to the substances listed in RCW 69.50.212, the commission places each of the following drugs and substances by whatever official name, common or usual name, chemical name, or brand name in Schedule V.~~

((a)) ~~The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule V.~~

((b)) ~~Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this section, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:~~

~~(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;~~

~~(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;~~

~~(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;~~

~~(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;~~

~~(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;~~

~~(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.)~~ Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

~~(1) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide); also referred to as BRV; UCB-34714; Briviant;~~

~~(2) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester].~~

~~(3) Approved cannabinol drugs. A drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabinol (2-[1R-3-methyl-6R-(1-methylethyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols, also known as Epidiolex.~~

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 92-12-035, filed 5/28/92, effective 6/28/92)

WAC 246-887-200 Other controlled substance registrants—Requirements. (1) All persons and firms, except persons exempt from registration, ((shall)) ~~must~~ register with the ((board)) ~~pharmacy quality assurance commission (commission)~~ in order to legally ((to)) possess or use controlled substances.

(2) Persons or firms which are not classified as pharmacies, wholesalers, manufacturers, or researchers ((shall)) ~~will~~ be classified as other controlled substance registrants. Examples of persons or firms in this classification include analytical laboratories, dog handlers/trainers who use dogs for drug detection purposes, school laboratories and other agencies which have a legitimate need to use precursor chemicals as defined in WAC 246-887-150.

(3) The applicant for a controlled substance registration ((shall)) ~~must~~ complete and return an application form supplied by the ((board)) ~~commission~~. Either on the form or on an addendum, the applicant ((shall)) ~~must~~ list the controlled substances to be used, the purpose for such use, and the names of the persons authorized to access the controlled substances.

(4) All controlled substances ((shall)) ~~must~~ be stored in a substantially constructed locked cabinet. The registrant shall

maintain records in sufficient detail in order to account for the receipt, use, and disposition of all controlled substances. ((Aa)) The registrant shall inventory ((ef)) all controlled substances in the possession of the registrant ((shall be completed)) every two years on the anniversary of the issuances of the registration and shall ((be maintained)) maintain the inventory list for two years. The registrant shall return unwanted, outdated, or unusable controlled substances ((shall be returned)) to the source from which it was obtained or surrendered to the Federal Drug Enforcement Administration.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-887-110 Adding MPPP to Schedule I.
WAC 246-887-120 Adding PEPAP to Schedule I.
WAC 246-887-130 Adding MDMA to Schedule I.
WAC 246-887-131 Adding Methcathinone to Schedule I.
WAC 246-887-132 Adding Aminorex to Schedule I.
WAC 246-887-133 Adding Alpha-ethyltryptamine to Schedule I.
WAC 246-887-165 Adding Xyrem to Schedule III.
WAC 246-887-190 Adding buprenorphine to Schedule V.